



NOTICE

The following pages contain copies of reports and other communications to City Council from Council Officers and citizens. While every effort has been made to preserve the original content and formatting of each document, the City of Roanoke is not responsible for typographic or other errors.

The original documents referenced in this file are available for inspection in the Office of the City Clerk, 215 Church Avenue, Room 456, Municipal Building, Roanoke, Virginia 24011.

To receive the City Council agenda (without reports) automatically via e-mail, contact the Office of the City Clerk at clerk@ci.roanoke.va.us or (540) 853-2541. The City Council agenda (with or without reports) for each meeting is available at www.ci.roanoke.va.us.

Mary F. Parker
City Clerk



***ROANOKE CITY COUNCIL
REGULAR SESSION***

***APRIL 2, 2001
12:15 P.M.***

CITY COUNCIL CHAMBER

AGENDA FOR THE COUNCIL

1. Call to Order--Roll Call.

A report of the City Attorney requesting a Closed Meeting to consult with legal counsel on a matter of pending litigation, pursuant to Section 2.1-344 (A)(7), Code of Virginia (1950), as amended.

A communication from the City Manager requesting a Closed Meeting to discuss the acquisition of real property for a public purpose, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the City, pursuant to Section 2.1-344 (A)(3), Code of Virginia (1950), as amended.

A communication from the City Manager requesting a Closed Meeting to discuss the disposition of publicly held property, pursuant to Section 2.1-344 (A)(3), Code of Virginia (1950), as amended.

A communication from the Honorable Ralph K. Smith, Mayor, requesting a Closed Meeting to discuss vacancies on various authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.1-344 (A)(1), Code of Virginia (1950), as amended.

CERTIFICATION OF CLOSED SESSION.

**THE MEETING OF ROANOKE CITY COUNCIL WILL BE
DECLARED IN RECESS TO BE RECONVENED AT 2:00 P.M.**



***ROANOKE CITY COUNCIL
REGULAR SESSION***

***APRIL 2, 2001
2:00 P.M.***

CITY COUNCIL CHAMBER

AGENDA FOR THE COUNCIL

1. Call to Order--Roll Call.

The Invocation will be delivered by The Reverend Johnny Stone, Pastor, Hill Street Baptist Church.

The Pledge of Allegiance to the Flag of the United States of America will be led by Mayor Ralph K. Smith.

Welcome. Mayor Smith.

NOTICE:

Meetings of Roanoke City Council are televised live on RVTN Channel 3. Today's meeting will be replayed on Channel 3 on Thursday, April 5, 2001, at 7:00 p.m., and Saturday, April 7, 2001, at 4:00 p.m. Council meetings are now being offered with closed captioning for the hearing impaired.

ANNOUNCEMENTS:

THE PUBLIC IS ADVISED THAT MEMBERS OF COUNCIL RECEIVE THE CITY COUNCIL AGENDA AND RELATED COMMUNICATIONS, REPORTS, ORDINANCES AND RESOLUTIONS, ETC., ON THE THURSDAY PRIOR TO THE COUNCIL MEETING TO PROVIDE SUFFICIENT TIME FOR REVIEW OF INFORMATION. CITIZENS WHO ARE INTERESTED IN OBTAINING A COPY OF ANY ITEM LISTED ON THE AGENDA MAY CONTACT THE CITY CLERK'S OFFICE, ROOM 456, NOEL C. TAYLOR MUNICIPAL BUILDING, 215 CHURCH AVENUE, S. W., OR CALL 853-2541.

THE CITY CLERK'S OFFICE NOW PROVIDES THE CITY COUNCIL AGENDA PACKAGE ON THE INTERNET FOR VIEWING AND RESEARCH PURPOSES. TO ACCESS THE AGENDA MATERIAL, GO TO THE CITY'S HOMEPAGE AT www.roanokegov.com, CLICK ON THE ROANOKE CITY COUNCIL ICON, CLICK ON MEETINGS AND AGENDAS, AND DOWNLOAD THE ADOBE ACROBAT SOFTWARE TO ACCESS THE AGENDA.

ALL PERSONS WISHING TO ADDRESS COUNCIL ARE REQUESTED TO REGISTER WITH THE STAFF ASSISTANT WHO IS LOCATED AT THE ENTRANCE TO THE COUNCIL CHAMBER. ON THE SAME AGENDA ITEM, ONE TO FOUR SPEAKERS WILL BE ALLOTTED FIVE MINUTES EACH, HOWEVER, IF THERE ARE MORE THAN FOUR SPEAKERS, EACH SPEAKER WILL BE ALLOTTED THREE MINUTES.

PRESENTATIONS:

Proclamation declaring the week of April 8 - 14 as National Telecommunicator's Week; and a resolution recognizing the Roanoke Public Safety Telecommunicator of the Year 2001 in the City's 911 Communications Center.

Proclamation declaring the month of April 2001 as Fair Housing Month.

2.

CONSENT AGENDA

ALL MATTERS LISTED UNDER THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE MEMBERS OF CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF DISCUSSION IS DESIRED, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

- C-1 Minutes of the regular meeting of Roanoke City Council held on Monday, March 19, 2001, and the reconvened meeting on Monday, March 26, 2001.

RECOMMENDED ACTION: Dispense with the reading thereof and approve as recorded.

- C-2 A communication from Mary S. Neal tendering her resignation as the City Manager's designee to the Cultural Services Committee, effective immediately.

RECOMMENDED ACTION: Receive and file the communication and accept the resignation.

- C-3 Qualification of the following persons:

Kermit E. Hale as a member of the Board of Zoning Appeals to fill the unexpired term of Sydnor W. Brizendine, Jr., deceased, ending December 31, 2001; and

Michael W. Ridenhour as a member of the Roanoke Neighborhood Partnership Steering Committee for a term ending November 30, 2003.

RECOMMENDED ACTION: Receive and file.

REGULAR AGENDA

Selection of persons to be accorded the public interview for Roanoke City School Board Trustee on Thursday, April 18, 2001, at 4:00 p.m., for terms commencing July 1, 2001, and ending June 30, 2004. Applicants are:

Gary M. Bowman
Melvin W. Garrett
Melinda J. Payne
William E. Skeen
Ruth C. Willson

3. HEARING OF CITIZENS UPON PUBLIC MATTERS:

- a. Request of the Roanoke Regional Chamber of Commerce to address Council with regard to Victory Stadium. Bruce Wood, Vice-Chair, Public Policy and Strategic Issues, Spokesperson.
- b. Request to present the Roanoke Regional Airport 2001-02 proposed Operating and Capital Purchase Budget, and proposed capital expenditures. Jacqueline L. Shuck, Executive Director, Spokesperson.

4. PETITIONS AND COMMUNICATIONS:

- a. A communication from Council Member William D. Bestpitch, City representative to the New River Valley Commerce Park Participation Committee, with regard to purchasing additional shares in the Commerce Park project.

5. REPORTS OF OFFICERS:

- a. CITY MANAGER:

BRIEFINGS: None.

ITEMS RECOMMENDED FOR ACTION:

1. A communication recommending appropriation of \$50,000.00 in connection with the Fifth District Employment and Training Consortium.
2. A communication recommending acceptance of a grant from the Library of Virginia, in the amount of \$13,000.00, for a computer lab in the Main Library; and appropriation of funds in connection therewith.
3. A communication recommending execution of a subgrant agreement with the Northwest Neighborhood Environmental Organization for administration of Community Development Block Grant (CDBG) funds for fiscal year 2000-01, for development of the Fifth Street Gateway Project.
4. A communication recommending authorization to enter into a 2000-01 Agreement with the City of Roanoke Redevelopment and Housing Authority, in connection with infrastructure improvements associated with the Lincoln 2000 HOPE VI Community Revitalization Program Project; and appropriation of \$347,000.00 in connection therewith.
5. A communication recommending appropriation of \$624,000.00 in connection with the Roanoke River Flood Reduction Project.
6. A communication recommending appropriation of \$34,790.00 in connection with infrastructure improvements for the Foot Levelers, Inc. Project.
7. A communication recommending designation of the former Norfolk Southern passenger rail station located on Shenandoah Avenue across from The Hotel Roanoke as the official depot for light rail service through the City.

b. DIRECTOR OF FINANCE:

1. Financial report for the month of February 2001.

6. REPORTS OF COMMITTEES:

- a. A report of the committee appointed to study restructuring of Council-Appointed boards and commissions. Vice-Mayor William H. Carder, Chair.
- b. A report of the Water Resources Committee recommending that the City Manager be authorized to acquire all needed property rights in connection with the Airport Road Signalization Project. Linda F. Wyatt, Chair.

7. UNFINISHED BUSINESS: NONE.

8. INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS:

- a. Ordinance No. 35242, on second reading, amending and reordaining certain sections of the 2000-2001 General Fund Appropriations. (Fund appropriations for the Capital Maintenance and Equipment Replacement Program.)
- b. Ordinance No. 35253, on second reading, rezoning a portion of those certain parcels of real property located at 4425 and 4431 Northwood Drive, N. W., and a portion of that certain parcel of land located at 2032 Peters Creek Road, from RS-3, Residential Single Family District, to C-2, General Commercial District, subject to certain proffered conditions.
- c. Ordinance No. 35254, on second reading, rezoning a tract of land partially fronting on a portion of Baldwin Avenue, N. E. (8 lots), and additional property fronting on a portion of Edmund Avenue (16 lots), from LM, Light Manufacturing District, to HM, Heavy Manufacturing District, subject to certain conditions proffered by the applicant.

9. MOTIONS AND MISCELLANEOUS BUSINESS:

- a. Inquiries and/or comments by the Mayor, Vice-Mayor and Members of City Council.

- b. Vacancies on various authorities, boards, commissions and committees appointed by Council.

10. OTHER HEARING OF CITIZENS UPON PUBLIC MATTERS:

CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. IT IS A TIME FOR CITIZENS TO SPEAK AND A TIME FOR COUNCIL TO LISTEN. MATTERS REQUIRING REFERRAL TO THE CITY MANAGER WILL BE REFERRED, WITHOUT OBJECTION, IMMEDIATELY, FOR ANY NECESSARY AND APPROPRIATE RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL.

REGULAR WEEKLY SESSION-----ROANOKE CITY COUNCIL

March 19, 2001

12:15 p.m.

The Council of the City of Roanoke met in regular session on Monday, March 19, 2001, at 12:15 p.m., the regular meeting hour, in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, Virginia, with Mayor Ralph K. Smith presiding, pursuant to Chapter 2, Administration, Article II, City Council, Section 2-15, Rules of Procedure, Rule 1, Regular Meetings, Code of the City of Roanoke (1979), as amended.

PRESENT: Mayor Ralph K. Smith-----1.

ABSENT: Council Members William White, Sr., Linda F. Wyatt, William D. Bestpitch, William H. Carder, C. Nelson Harris, and W. Alvin Hudson, Jr.-----6.

OFFICERS PRESENT: Mary F. Parker, City Clerk.

No agenda items having been scheduled for the 12:15 p.m. session, the Mayor declared the meeting in recess until 2:00 p.m.

On Monday, March 19, 2001, at 2:00 p.m., the meeting of Roanoke City Council reconvened in regular session in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, with the following Council Members in attendance, Mayor Smith presiding.

PRESENT: Council Members Linda F. Wyatt, William D. Bestpitch, William H. Carder, C. Nelson Harris, W. Alvin Hudson, Jr., and Mayor Ralph K. Smith-----6.

ABSENT: Council Member William White, Sr.-----1.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; James D. Grisso, Director of Finance; and Mary F. Parker, City Clerk.

The meeting was opened with a prayer by The Reverend E. T. Burton, Pastor, Sweet Union Baptist Church.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Smith.

PRESENTATIONS

ACTS OF ACKNOWLEDGEMENT-CITY MANAGER: Mr. Harris offered the following resolution recognizing the 26 years of service of James D. Ritchie, Sr., Deputy City Manager, upon his retirement effective April 1, 2001:

(#35230-031901) A RESOLUTION paying tribute to James D. Ritchie, Sr., Deputy City Manager, for the City of Roanoke, and expressing to him the appreciation of this City and its people for his exemplary public service.

(For full text of Resolution, see Resolution Book No. 64.)

ACTION: Mr. Harris moved the adoption of Resolution No. 35230-031901. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

The Mayor presented Mr. Ritchie with a ceremonial copy of the resolution and advised that other acknowledgments will be made at his farewell reception on Thursday, March 29, 2001, at 2:00 p.m., in Fitzpatrick Hall at The Jefferson Center.

DECEASED PERSONS-CITY COUNCIL: Mr. Harris offered the following resolution memorializing the late G. Frank Clement, former Member of Roanoke City Council from January 1, 1980 through June 30, 1980:

(#35231-031901) A RESOLUTION memorializing the late G. Frank Clement, a longtime resident of Roanoke and retired President and Chairman of the Board of Shenandoah Life Insurance Company.

(For full text of Resolution, see Resolution Book No. 64.)

ACTION: Mr. Harris moved the adoption of Resolution No. 35231-031901. The motion was seconded by Mr. Hudson and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

The Mayor presented a ceremonial copy of the above referenced resolution to Mr. Clement's son, Don Clement, and expressed the condolences of the Council and citizens of the City of Roanoke.

DECEASED PERSONS-PARKS AND RECREATION: Mr. Hudson offered the following resolution memorializing the late Jimmie Layman:

(#35232-031901) A RESOLUTION memorializing the late Jimmie Layman, former Manager of the Roanoke Parks and Recreation Department and a Clerk for the Roanoke City Market.

(For full text of Resolution, see Resolution Book No. 64.)

ACTION: Mr. Hudson moved the adoption of Resolution No. 35232-031901. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

The Mayor presented a ceremonial copy of the above referenced measure to Mrs. Jimmie Layman and expressed the condolences of the Council and citizens of the City of Roanoke.

CONSENT AGENDA

The Mayor advised that all matters listed under the Consent Agenda were considered to be routine by the Members of Council and would be enacted by one motion in the form, or forms, listed on the Consent Agenda, and if discussion was desired, that item would be removed from the Consent Agenda and considered separately. He called specific attention to one request for a Closed Meeting to discuss a personnel matter with regard to vacancies on various authorities, boards, commissions and committees appointed by the Council.

MINUTES: Minutes of the regular meetings of Council held on Monday, March 5, 2001, were before the body.

(For full text, see Minutes on file in the City Clerk's Office.)

ACTION: Mr. Harris moved that the reading of the Minutes be dispensed with and that the Minutes be approved as recorded. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

COMMITTEES-COUNCIL: A communication from Mayor Ralph K. Smith requesting that Council convene in a Closed Meeting to discuss personnel matters relating to vacancies on various authorities, boards, commissions and committees appointed by the Council, pursuant to Section 2.1-344 (A)(1), Code of Virginia (1950), as amended, was before the body.

(For full text, see communication on file in the City Clerk's Office.)

ACTION: Mr. Harris moved that Council concur in the request of the Mayor to convene in a Closed Meeting to discuss personnel matters relating to vacancies on various authorities, boards, commissions and committees appointed by the Council, pursuant to Section 2.1-344 (A)(1), Code of Virginia (1950), as amended. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

MUNICIPAL AUDITOR-AUDIT COMMITTEE: Minutes of a meeting of the Audit Committee of Roanoke City Council which was held on Monday, March 5, 2001, were before the body.

The Audit Committee considered the following items:

FINANCIAL AUDITS:

Clerk of the Circuit Court

Sheriff's Canteen and Jail Inmate Fund

FINANCIAL RELATED AUDITS:

Civic Center Concessions

AUDIT SELECTION COMMITTEE - RECOMMENDATION

GASB 34 Implementation

(For full text, see Minutes on file in the City Clerk's Office.)

ACTION: Mr. Harris moved that the Minutes be received and filed. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

ROANOKE NEIGHBORHOOD PARTNERSHIP-HUMAN DEVELOPMENT-ROANOKE VALLEY RESOURCE AUTHORITY-AIRPORT-COURT COMMUNITY CORRECTIONS BOARD-OATHS OF OFFICE-COMMITTEES: The following reports of qualification were before Council:

William E. Skeen and Lular R. Lucky as members of the Roanoke Neighborhood Partnership Steering Committee for terms ending November 30, 2003;

Sheri Bernath as a member of the Blue Ridge Behavioral Healthcare Board to fill a vacancy created by the resignation of Ann Janney-Schultz for a term ending December 31, 2003;

Robert K. Bengtson as a City representative to the Roanoke Valley Resource Authority for a term ending December 31, 2004;

J. Granger Macfarlane as a member of the Roanoke Regional Airport Commission for a term ending March 9, 2005; and

William H. Cleaveland as the City's representative to the Court Community Corrections Program Policy Board for a term ending December 31, 2003.

(See Oaths or Affirmations of Office on file in the City Clerk's Office.)

ACTION: Mr. Harris moved that the reports of qualification be received and filed. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

REGULAR AGENDA

HEARING OF CITIZENS UPON PUBLIC MATTERS: None.

PETITIONS AND COMMUNICATIONS:

BUDGET-TAXES: A communication from Vice-Mayor Carder requesting that Council consider the question of increasing the cigarette tax by ten cents, during fiscal year 2001-02 budget study, and that the additional \$735,000.00 be allocated to curb, gutter and sidewalk improvements, was before the body.

(For full text, see communication on file in the City Clerk's Office.)

Mr. Hudson advised that he would support a 20 cents increase in the cigarette tax.

Mayor Smith advised that he would support an increase, but expressed the need to review the overall tax structure of the City in an effort to counter balance any increase in the cigarette tax.

ACTION: Mr. Carder moved that the request be referred to fiscal year 2001-02 budget study. The motion was seconded by Mr. Harris and adopted.

BUDGET-COMMONWEALTH'S ATTORNEY-GRANTS: A communication from the Honorable Donald S. Caldwell, Roanoke City Commonwealth's Attorney, advising that the Department of Criminal Justice Services (DCJS) has awarded the City of Roanoke a grant in the amount of \$72,191.00 for the calendar year 2001, was before Council.

It was further advised that the Grant for VIRGINIA EXILE in 2001 will continue to provide the City of Roanoke with additional funding resources to maintain the Commonwealth's emphasis on prosecuting violent gun carriers in the City; the EXILE Grant relates to state laws, enacted in 1999, which set minimum mandatory sentences for convicted felons who possess guns, individuals who possess guns while possessing drugs, and people who bring guns on to school property with the intent to use the weapons; the City of Roanoke would use the funds to target those persons who illegally possess and use firearms and to reduce the number of violent firearms crimes in the City of Roanoke; the goal will be achieved through a unified effort of city, state, and federal prosecutors and law enforcement agencies; and the grant requires a cash match of \$8,021.00 from the City's General Fund Contingency.

The Commonwealth's Attorney recommended that Council adopt a resolution accepting 2001 DCJS funds and authorize the City Manager to execute the requisite Grant Agreement, Funding Approval, and any other forms required by DCJS on behalf of the City, in order to accept such funds, with said Agreement and forms to be approved as to form by the City Attorney; appropriate \$80,212.00, establish a grant fund revenue estimate, and transfer funds in the amount of \$8,021.00 from General Fund Contingency (001-300-9410-2199) to Transfer to Grant Fund (001-250-9310-9535).

The City Manager submitted a communication concurring in the recommendation of the Commonwealth's Attorney.

(For full text, see communications on file in the City Clerk's Office.)

Mr. Hudson offered the following emergency budget ordinance:

(#35233-031901) AN ORDINANCE to amend and reordain certain sections of the 2000-2001 General and Grant Funds Appropriations, and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Hudson moved the adoption of Ordinance No. 35233-031901. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

Mr. Hudson offered the following Resolution:

(#35234-031901) A RESOLUTION accepting the Virginia Exile Grant offer made to the City by the Department of Criminal Justice Services and authorizing execution of any required documentation on behalf of the City.

(For full text of Resolution, see Resolution Book No. 64.)

ACTION: Mr. Hudson moved the adoption of Resolution No. 35234-031901. The motion was seconded by Mr. Harris and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

BUDGET-SCHOOLS: A communication from the Roanoke City School Board requesting appropriation of funds to the following school accounts, was before Council.

\$68,992.00 to provide additional funds for carpet and floor tile improvements to Fairview Elementary School. Funding will be provided through a Literary Fund loan approved for the project.

\$28,710.00 to provide additional funds for carpet and floor tile improvements to Fishburn Park Elementary School. Funding will be provided through a Literary Fund loan approved for the project.

\$419,427.00 for the Title I Winter program to provide remedial reading, language arts, and mathematics instruction for students in targeted schools. This continuing program will be reimbursed one hundred percent by Federal funds.

\$50,960.00 for the 2000-01 Governor's School program to provide instruction in science and math to high school students. This supplemental appropriation represents additional State funds allocated to this continuing program.

\$1,000.00 for the Jobs for Virginia Graduates program to serve at least 25 economically disadvantaged students, providing classroom training and work experience to assist the students to prepare for high school graduation or to sit for the General Education Development (GED) examination. This supplemental appropriation represents additional Federal funds allocated to this continuing program.

\$250,000.00 for the cost of architect fees in connection with the high school renovation feasibility study. Funding will be provided from 1999 Bond funds.

\$71,548.00 from the 2000-01 Capital Maintenance and Equipment Replacement Fund to provide monies for administrative technology requests, for instructional equipment and systems, for the repair of a modular roof at Morningside Elementary School, and for modular furniture and telephone systems at selected elementary schools.

A report of the Director of Finance recommending that Council concur in the request, was also before the body.

(For full text, see communication and report on file in the City Clerk's Office.)

Mr. Harris offered the following emergency budget ordinance:

(#35235-031901) AN ORDINANCE to amend and reordain certain sections of the 2000-2001 General, School and School Capital Projects Funds Appropriations, and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Harris moved the adoption of Ordinance No. 35235-031901. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

REPORTS OF OFFICERS:

CITY MANAGER:

BRIEFINGS: None.

ITEMS RECOMMENDED FOR ACTION:

BUDGET-FLOOD REDUCTION/CONTROL: The City Manager submitted a communication advising that on June 25, 1990, the City executed a Local Cooperation Agreement with the U. S. Army Corps of Engineers to construct the Roanoke River Flood Reduction Project in which the City agreed to relocate all City owned utilities, streets and other facilities necessary to construct the Roanoke River Flood Reduction Project at 100 per cent City expense; on March 18, 1991, the City entered into a contract with Hayes, Seay, Mattern & Mattern, Inc., for work consisting of three phases: planning, design and construction administration for all City owned utility relocations required by the Project (Consultant Contract); Phase I (Planning) was to be the basis for determining the scope of work needed for the other two phases; shortly after entering into a contract for the preliminary phase of the work, the Flood Reduction Project was placed on hold, primarily due to environmental issues, which were not resolved until 1997; currently, the Corps of Engineers is completing construction plans for the Project, and certain utility, street and other facility conflicts have been identified which must be relocated prior to construction; and Phase I (Planning) of the Consultant Contract has been completed.

It was further advised that the balance of the Consultant Contract work (Phase II – Design and Phase III – Construction Administration) is now ready to proceed, and a detailed contract amendment setting forth the scope of Phase II and Phase III and updating certain contract terms has been prepared with Hayes, Seay, Mattern & Mattern, Inc., for the remaining project design and construction administration, at a cost of \$227,353.00; funding is available in existing Capital Project, Account No. 008-056-9620 “Roanoke River Flood Reduction”; and estimated cost for construction of relocations included in the project is \$1.5 million.

The City Manager recommended that she be authorized to execute a contract amendment for the above services with Hayes, Seay, Mattern & Mattern, Inc., in a form acceptable to the City Attorney, for a contract price of \$227,353.00; and authorize the Director of Finance to transfer \$240,000.00 from the Capital Project, Account No. 008-056-9620, to an account entitled, “Roanoke River Utility Relocation” to fund the amendment and to provide a \$12,647.00 contingency fund.

(For full text, see report on file in the City Clerk’s Office.)

Mr. Carder offered the following emergency budget ordinance:

(#35236-031901) AN ORDINANCE to amend and reordain certain sections of the 2000-2001 Capital Projects Fund Appropriations, and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Carder moved the adoption of Ordinance No. 35236-031901. The motion was seconded by Mr. Hudson and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

Mr. Carder offered the following resolution:

(#35237-031901) A RESOLUTION authorizing the City Manager's issuance of Amendment 1A to the City's contract with Hayes, Seay, Mattern & Mattern, Inc. for Phase II - design and Phase III - construction administration for the Roanoke River Flood Reduction Project - Utility Relocation Design.

(For full text of Resolution, see Resolution Book No. 64.)

ACTION: Mr. Carder moved the adoption of Resolution No. 35237-031901. The motion was seconded by Mr. Hudson and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

TELEPHONE COMPANIES-COMMUNICATIONS DEPARTMENTS: The City Manager submitted a communication advising that current management responsibility for City-wide telecommunications resides within the Department of Technology; Roanoke City's school division local dial tone phone services are also managed by the City's Department of Technology; and the City's type of telephone service, Centrex, among other requirements, dictates the need for four digit dialing, departmental transfer, conference call, speed dial capabilities, paging access, and voice mail among City departments and schools.

It was further advised that the City issued an invitation for bid for local telephone service on October 25, 2000, and the current contract for local telephone service with Verizon Virginia expired on November 26, 2000; three bids were received and evaluated; the low bidder did not submit a bid which conformed in all material respects to the invitation to bid and was thus non-responsive; Verizon Virginia was the next low bidder and is a responsive bidder; and Verizon Virginia is the City's current provider, and its proposed rate would be a cost savings of \$9,000.00 per month less than the current rate.

The City Manager recommended that she be authorized to enter into a contract with Verizon Virginia at a cost of \$55,395.66 per month for a period of one year, with the option to renew for an additional one year period, and funds are available in operating accounts to cover the cost of the contract.

(For full text, see report on file in the City Clerk's Office.)

Mr. Harris offered the following resolution:

(#35238-031901) A RESOLUTION finding that the low bidder did not provide a responsive bid and accepting the bid of Verizon Virginia to provide local telephone service, upon certain terms and conditions, and awarding a contract therefor; authorizing the proper City officials to execute the requisite contract for such services; and rejecting all other bids made to the City for the service.

(For full text of Resolution, see Resolution Book No. 64.)

ACTION: Mr. Harris moved the adoption of Resolution No. 35238-031901. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

POLICE DEPARTMENT: The City Manager submitted a communication advising that the City of Roanoke received bids for the new police building project on December 22, 1999; Thor, Inc., submitted the low bid in the amount of \$4,335,000.00 and 390 consecutive calendar days for construction time; the amount of the low bid exceeded available funding, and after negotiation, a revised bid was

accepted in the amount of \$4,015,200.00, with no change in construction time; one of the items addressed in the negotiation was removal of the streetscapes from the contract amount for a savings of \$30,300.00, which includes detailed masonry enhancements that are more appropriately handled by contract work rather than City forces, however, the Public Works Department will fund the work out of its concrete replacement account; and it is proposed that the work be added to the existing contract by a change order in the amount of \$30,300.00.

The City Manager recommended that she be authorized to execute Change Order No. 9 with Thor, Inc., in the amount of \$30,300.00 and zero additional calendar days of contract time, for a total contract amount of \$4,204,707.50, and authorize the Director of Finance to transfer \$30,300.00 from Sidewalk & Curbs Phase V-A, Account No. 008-052-9608-9001, to Police Building Streetscape, Account No. 008-530-9770.

(For full text, see report on file in the City Clerk's Office.)

Mr. Harris offered the following emergency ordinance:

(#35239-031901) AN ORDINANCE to amend and reordain certain sections of the 2000-2001 Capital Projects Fund Appropriations, and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Harris moved the adoption of Ordinance No. 35239-031901. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

Mr. Harris offered the following emergency Ordinance:

(#35240-031901) AN ORDINANCE authorizing the City Manager's issuance of Change Order No. 9 to the City's contract with Thor, Inc., for the removal of streetscapes for the New Police Building Project; and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

Mr. Harris moved the adoption of Ordinance No. 35240-031901. The motion was seconded by mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

PARKS AND RECREATION-DISABLED PERSONS: The City Manager submitted a communication advising that on February 5, 2001, Council authorized the City Manager to enter into a contractual agreement with Wyant Construction Co., Inc., for remodeling seven City park shelters (Thrasher, Golden, Fallon, Wasena, Strauss, Smith and Crystal Springs) to be in compliance with the Americans with Disabilities Act requirements; the Council letter and Bid Committee report of February 5, 2001, inadvertently listed Wyant Construction Co., Inc., as the entity to be awarded the contract, which was not the correct legal name; and it was determined that the correct legal name to be used for the contract is Kenneth L. Wyant, t/a Wyant Construction Co.

The City Manager recommended that Council amend Ordinance No. 35208-020501, adopted February 5, 2001, to set forth the correct name of the entity awarded the contract for the project, affirm acceptance of the bid of Kenneth L. Wyant, t/a Wyant Construction Co. and award a lump sum contract to Kenneth L. Wyant, t/a Wyant Construction Co., in the amount of \$98,950.00 and 75 consecutive calendar days of contract time, and authorize the City Manager to enter into a contractual agreement for the work, in a form to be approved by the City Attorney.

(For full text, see report on file in the City Clerk's Office.)

Mr. Hudson offered the following emergency ordinance:

(#35241-031901) AN ORDINANCE amending Ordinance No. 35208-020501 to set forth the correct name of the entity being awarded the bid for remodeling seven City park shelters (Thrasher, Golden, Fallon, Wasena, Strauss, Smith and Crystal Springs) to be in compliance with the Americans with Disabilities Act requirements; and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Hudson moved the adoption of Ordinance No. 35241-031901. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

BUDGET-CMERP-EQUIPMENT-RECYCLING-LIBRARIES: The City Manager submitted a communication advising that on October 2, 2000, Council concurred in funding recommendations for the fiscal year 2000-01 Capital Maintenance and Equipment Replacement Program (CMERP); approval by Council is required for appropriation of funds from CMERP to various accounts to allow for acquisition of items listed on Attachment "A" to the report; i.e.: recarpeting of the Williamson Road and Raleigh Court Branch Libraries - \$142,091.00, library improvements - \$100,000.00, five hundred 96-gallon Toter cans (trash containers) - \$21,250.00 and three-thousand sixty-five 21-gallon recycling bins - \$13,770.00.

The City Manager recommended that Council adopt a budget ordinance appropriating \$177,111.00 to the following departmental accounts:

\$142,091.00 to Building Services, Account No. 001-440-4330-3057
\$35,020.00 to Solid Waste Management, Account No. 001-530-4210-2035

(For full text, see report on file in the City Clerk's Office.)

Mr. Carder offered the following emergency budget ordinance:

(#35242-031901) AN ORDINANCE to amend and reordain certain sections of the 2000-2001 General Fund Appropriations, and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Carder moved the adoption of Ordinance No. 35242-031901. The motion was seconded by Mr. Harris.

Ms. Wyatt expressed concern with regard to that portion of the report relating to recycling bins at a cost of \$13,770.00. She advised that when Council was briefed on the recycling program on Monday, March 5, 2001, she requested a cost analysis,

at which time she stated that she would not support any expenditures pertaining to recycling until she was provided with the requested information. Inasmuch as the cost analysis has not been received, she advised that she could not support the ordinance appropriating CMERP funds; however, she requested that the record reflect that she does support library recarpeting/improvements, totaling \$142,091.00.

Mr. Hudson concurred in Ms. Wyatt's remarks and advised that he could not support the ordinance without the requested information on recycling cost analysis.

Inasmuch as emergency measures require the affirmative vote of five members of Council, the ordinance was lost by the following vote:

AYES: Council Members Bestpitch, Carder, Harris, and Mayor Smith-----4.

NAYS: Council Members Wyatt and Hudson-----2.

(Council Member White was absent.)

Mr. Bestpitch moved that the emergency clause be stricken from Ordinance No. 35242. The motion was seconded by Mr. Carder and adopted, Council Members Wyatt and Hudson voting no.

Mr. Bestpitch moved that the following ordinance be placed upon its first reading:

(#35242) AN ORDINANCE to amend and reordain certain sections of the 2000-2001 General Fund Appropriations.

The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Bestpitch, Carder, Harris and Mayor Smith-----4.

NAYS: Council Members Wyatt and Hudson-----2.

(Council Member White was absent.)

BOUNDARYLINE ADJUSTMENTS-STREETS AND ALLEYS: The City Manager submitted a communication advising that since 1996, there have been unresolved issues regarding access and public services for 12 parcels of land located on Gates Lane, N. E., within the City of Roanoke; access to Gates Lane in the City is only by way of Gates Lane, in the Town of Vinton, which is a private road; in the past, there has been difficulty in responding to emergencies since the City must travel through the Town of Vinton to respond; the City has provided refuse service by way of the

private street, because refuse trucks have not been able to negotiate the narrow street and occasionally have caused damage to the street; Roanoke City Schools has provided individual pick up by car for one student in order to provide transportation to a City school; in 1997 and 1998, the City denied subdivision of a 19.2 acre parcel of land owned by Mr. Mike Henderson due to inadequate access provided by Gates Lane (private road); Mr. Henderson and Mrs. Carrell (805 Gates Lane) have both made inquiries as to the possibility of adjusting the corporate boundary line to relocate these 12 properties into the Town of Vinton; and it is the City's understanding that location of the property at the end of a private road or lane will prohibit subdivision of the property, regardless of which jurisdiction the property is located within.

It was further advised that Section 16.2-3106, Code of Virginia, 1950, as amended, states that wherever any two or more localities wish to relocate or change the boundary line between them, the governing bodies of such localities may, by agreement, establish, relocate or change such boundary line; accordingly, in this instance, the three local governments (the City of Roanoke, County of Roanoke and Town of Vinton) must be partners in any boundary adjustment agreement; before adopting an agreement, each governing body is required to properly advertise its intention to approve such agreement; following publication of its intent to enter into such an agreement, each party to the agreement must hold at least one public hearing on the agreement prior to its adoption; within a reasonable time after a voluntary boundary agreement is adopted by the three parties, each locality shall petition the Circuit Court for one of the affected localities to approve the boundary agreement; a plat must be provided depicting the change in the boundaries of the locality or a metes and bounds description of the new boundary line of the locality; and costs shall be awarded as the Court may determine.

It was explained that the City Attorney is of the opinion that since the City is relinquishing its land, the City should expect Roanoke County and the Town of Vinton to bear all expenses of preparing the necessary agreements, surveys, advertising costs, and costs of petitioning the Circuit Court; and in the City Attorney's experience, these types of voluntary annexations are time consuming and would be subject to U. S. Justice Department approval under the Voting Rights Act and may have to be reviewed by the Council of Local Governments.

The City Manager advised that the proposed boundary line adjustment would involve 12 properties and a total land area of 33.29 acres; total assessed value of the 12 properties is \$480,400.00, and the combined annual tax revenue is \$5,725.23; and in the year 2000, the City spent \$9,929.00 collecting refuse and the City school system spent \$4,835.00 providing transportation for one student to attend Roanoke City public schools.

The City Manager recommended that she be authorized to inquire as to the intention of the adjoining municipalities and support of a boundary line adjustment to include the 12 parcels of land identified on Attachments 1 and 2, to the report, and that Council further authorize the City Manager and the City Attorney to review and report to Council on any agreement developed with the other jurisdiction(s) to adjust the current boundary line.

(For full text, see communication on file in the City Clerk's Office.)

ACTION: Mr. Harris moved that Council concur in the recommendation of the City Manager. The motion was seconded by Mr. Carder and adopted.

STATE HIGHWAYS-STREETS AND ALLEYS-BRIDGES: The City Manager submitted a communication advising that Section 33.1 – 41.1, Code of Virginia, 1950, as amended, establishes eligibility criteria of localities for receiving funds from the Virginia Department of Transportation (VDOT) for street maintenance; the Code specifies two functional classifications of roadways (Principal/Minor Arterials and Collector/Locals) and establishes a base payment rate per lane mile for each classification or roadway; rates are adjusted annually by VDOT based upon a statewide maintenance index of unit costs for labor, equipment and materials used by VDOT on roads and bridges; the City's eligibility for fiscal year 2000-2001 is approximately \$8,347,949.00 in street maintenance payments from VDOT; and these funds are used for eligible maintenance expenditures that the City incurs for streets, sidewalks, curb and gutter, traffic signals for bridges, signs and pavement markings.

It was further advised that City staff suggests that a list of streets attached to the report be submitted to VDOT to enable their eligibility for payment in the next fiscal year; approval of the additions and deletions to the street inventory is expected to increase the street maintenance payments to the City by approximately \$4,000.00 at current year payment rates; and VDOT has agreed to take on maintenance responsibilities of Frontage Road, therefore, it is included as a deletion from the City system.

The City Manager recommended that she be authorized to submit a proposed list of streets to the Virginia Department of Transportation for approval by the Commonwealth Transportation Board to enable State Maintenance Payment eligibility.

(For full text, see communication on file in the City Clerk's Office.)

Mr. Harris offered the following resolution:

(#35143-031901) A RESOLUTION authorizing the City Manager to submit a street inventory for State maintenance payment eligibility to the Virginia Department of Transportation (VDOT), upon forms prescribed by VDOT for approval by the Commonwealth Transportation Board, in order to ensure the City's eligibility for State maintenance funds.

(For full text of Resolution, see Resolution Book No. 64.)

ACTION: Mr. Harris moved the adoption of Resolution No. 35243-031901. The motion was seconded by Mr. Hudson and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

BUDGET-FDETC: The City Manager submitted a communication advising that the Fifth District Employment and Training Consortium (FDETC) administers the Federally funded Workforce Investment Act (WIA) for the region, which encompasses the Counties of Alleghany, Botetourt, Craig, Franklin and Roanoke, as well as the Cities of Clifton Forge, Covington, Roanoke and Salem; the agency's client population is primarily economically disadvantaged individuals as determined by household income guidelines set by the U. S. Department of Labor; the City of Roanoke is the grant recipient and fiscal agent for FDETC funding, therefore, Council must appropriate funding for all grants and other monies the FDETC receives; Family Services of Roanoke Valley has signed an agreement with the FDETC which provides funding for job search and placement services to clients referred to the FDETC by the Drug Court; Family Services will pay \$250.00 per client served for the period January 1, 2001 to December 31, 2001; and funding will be provided for a population of up to 88 persons, or a maximum of \$22,000.00 for the agreed upon period.

The City Manager recommended that Council appropriate FDETC funding totaling \$22,000.00 and increase the revenue estimate by \$22,000.00 in accounts to be established in the Consortium Fund by the Director of Finance.

(For full text, see communication on file in the City Clerk's Office.)

Mr. Harris offered the following emergency budget ordinance:

(#35244-031901) AN ORDINANCE to amend and reordain certain sections of the 2000-2001 Consortium Fund Appropriations, and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Harris moved the adoption of Ordinance No. 35244-031901. The motion was seconded by Mr. Hudson and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

DIRECTOR OF FINANCE:

BUDGET-JUVENILE CORRECTIONAL FACILITIES: The Director of Finance submitted a written report advising that the Department of Finance provides accounting, payroll and retirement services for the Roanoke Valley Detention Commission; the Roanoke Valley Detention Commission recently adopted an operating budget for fiscal year 2002 which will be the first full year of operation of the completed facility since Phase II construction is scheduled for completion in June 2001; and the budget must be appropriated within the City's accounting system in order for the City to properly administer accounting services.

The Director of Finance recommended that Council adopt an ordinance appropriating the Roanoke Valley Detention Commission's operating budget for fiscal year 2002.

(For full text, see report on file in the City Clerk's Office.)

Mr. Hudson offered the following emergency budget ordinance:

(#35245-031901) AN ORDINANCE to amend and reordain certain sections of the 2001-2002 Roanoke Valley Detention Commission Fund Appropriations, and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Hudson moved the adoption of Ordinance No. 35245-031901. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

REPORTS OF COMMITTEES:

AUDITS/FINANCIAL REPORTS-AUDIT COMMITTEE: Council Member William H. Carder, Member, Audit Committee, presented a written report on behalf of the Committee, recommending that Council authorize the City Manager to execute the appropriate documents to contract on behalf of the City with KPMG under the terms stated in the City's "Request for Proposal for Auditing Services", Number 00_11-1, KPMG's proposal dated December 5, 2000, and KPMG's "Fee Schedule for Audit Services" dated February 5, 2001.

(For full text, see reports on file in the City Clerk's Office.)

Mr. Harris offered the following emergency ordinance:

(#35146-031901) AN ORDINANCE authorizing the City Manager to enter into an agreement with KPMG LLP for the performance of annual audits of the City's finances for each of the fiscal years ending June 30, 2001, 2002, 2003, and 2004, upon certain terms and conditions; and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Harris moved the adoption of Ordinance No. 35246-031901. The motion was seconded by Mr. Bestpitch and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

POLICE DEPARTMENT-EQUIPMENT: Council Member W. Alvin Hudson, Jr., Chairperson, Bid Committee, presented a written report on behalf of the Committee, in connection with bids received by the City to fabricate and install lockers in the New Police Building, located at 348 West Campbell Avenue. The Bid Committee recommended that Council approve the following actions:

Accept the bid and award a lump sum contract to Carter's Cabinet Shop of Roanoke, Inc., in the amount of \$169,281.00 and 60 consecutive calendar days of contract time, with a project contingency of \$10,719.00;

Authorize the City Manager to enter into a contractual agreement for the work;

Reject all other bids received by the City.

The City Manager submitted a written report concurring in the recommendation of the Bid Committee.

(For full text, see reports on file in the City Clerk's Office.)

Mr. Hudson offered the following emergency ordinance:

(#35247-031901) AN ORDINANCE accepting the bid of Carter's Cabinet Shop of Roanoke, Inc., to fabricate and install lockers in the New Police Building, located at 348 Campbell Avenue, as follows: 248 in Men's Locker Room, 28 in Women's Locker Room and 17 in the Tactical Room, upon certain terms and conditions and awarding a contract therefor; authorizing the proper City officials to execute the requisite contract for such work; rejecting all other bids made to the City for the work; and providing for an emergency.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Hudson moved the adoption of Ordinance No. 35247-031901. The motion was seconded by Mr. Bestpitch.

Mr. Hudson expressed concern that \$180,000.00 is proposed for expenditure for 293 police lockers when there are fewer than 250 authorized police officer positions. He also questioned the size of the proposed lockers.

Mr. Bestpitch advised that most police officers are not provided with an office or a desk, therefore, their work environment consists of a locker and a shared police vehicle while on duty. He requested that Council act favorably on the proposed lockers which provide the only space that police officers can claim as their own.

The Assistant City Manager for Community Development advised that Phase I of the new police building contains 293 lockers for police officers; regular lockers are truly the “desk” of a uniformed patrol officer when he or she reports for duty and lockers are used to house uniforms, portable radios and other equipment, along with personal items, including a brief case containing the paper work that each officer is required to complete as a part of their official duties. He stated that the proposed lockers comply with standards of the International Chiefs of Police Association which consist of double door lockers that allow the officer to store rain gear, a winter jacket and an area for bullet proof vest ventilation. He added that lockers represent an important basic issue for performance and morale and the dividends that this investment will pay for both quality service and increased morale will be significant.

The Mayor advised that he supports the recommendation of the Bid Committee, however, Mr. Hudson’s questions are appropriate.

Ordinance No. 35247-031901 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson
and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

**HOUSING/AUTHORITY-SOUTH JEFFERSON REDEVELOPMENT PLAN-
COMMUNITY PLANNING-INDUSTRIES-BUDGET:** A report of the City Planning Commission in connection with a request of the Roanoke Redevelopment and Housing Authority for consideration of the South Jefferson Redevelopment Plan and determination that the proposed redevelopment plan is in substantial accord with the City’s Comprehensive Plan, Roanoke Vision, was before Council.

The City Planning Commission advised that the redevelopment area is located generally east of Route 220 (Roy L. Webber Expressway), west of the Roanoke River, south of the Elm Avenue interchange with Interstate 581, and north of Wiley Drive; at completion, the project could provide up to two million square feet of building space, attract up to \$300 million in private capital expenditures, and provide up to 2,500 new, technical jobs for the region; and the Housing Authority has worked closely with affected property owners to address concerns and where possible, integrate their ideas for economic development and private investment.

It was explained that the Planning Commission's role in the proposed Redevelopment Plan is advisory to Council with respect to a determination that the proposed Redevelopment Plan is in substantial accord with the City's Comprehensive Plan, as set forth in Section 15.2-2232, Code of Virginia (1950), as amended; the Redevelopment Plan identifies three general areas for redevelopment, i.e.: (1) Jefferson Street corridor, (2) campus and institutional areas in the vicinity of Reserve Avenue, and (3) the crossing in the vicinity of railroad development and warehouses; and a proposed Land Use Map is included in the Redevelopment Plan identifying the following four classifications of land use proposed for the redevelopment area: (1) institutional mixed use (research, biomedical, and support uses, (2) commercial support use, (i.e. office, business support), (3) commercial and residential mixed use (flexible, combination business/residential space and (4) public use (i.e. open space, greenways).

The Planning Commission advised that public improvements are proposed for transportation corridors serving the area (Jefferson Street, Albemarle Avenue, Williamson Road and Reserve Avenue) and for low lying flood plain areas (along the Roanoke River), which improvements include street widening, sidewalks, utility relocation and new public open spaces and greenways; and an access ramp to the redevelopment area from Interstate 581 is being pursued, however, at the present time, the ramp's final location is pending additional traffic and planning studies.

The City Planning Commission, on a vote of 5 - 1, found that the Redevelopment Plan for the South Jefferson Redevelopment area is in substantial accord with the City's Comprehensive Plan, Roanoke Vision, and recommends that Council approve the Redevelopment Plan and find that the Plan is in accord with the City's Comprehensive Plan.

(For full text, see report on file in the City Clerk's Office.)

A communication from John P. Baker, Executive Director, Roanoke Redevelopment and Housing Authority, advising that the Housing Authority approved the South Jefferson Redevelopment Plan and the South Jefferson Cooperation Agreement 2 at its regular meeting on March 12, 2001; and the Redevelopment Plan and Cooperation Agreement are forwarded to Council with a recommendation for approval from the Roanoke Redevelopment and Housing Authority.

(For full text, see communication on file in the City Clerk's Office.)

Mr. Hudson offered the following resolution:

(#35248-031901) A RESOLUTION approving the Redevelopment Plan for the South Jefferson Redevelopment Area dated February 5, 2001, as being substantially in accord with Roanoke Vision, the City's Comprehensive Plan, and as required by Section 360-51 of the Code of Virginia (1950), as amended.

(For full text of resolution, see Resolution Book No. 64.)

Mr. Hudson moved the adoption of Resolution No. 35248-031901. The motion was seconded by Mr. Carder.

Mr. Mark M. Hall, 1633 South Jefferson Street, owner of Wimmer Tire Service Recap Shop, advised that his building will be the first to be razed; however, he commended the South Jefferson Redevelopment Plan and future benefits to the City of Roanoke as a result of the project. He encouraged the City to provide just compensation to those businesses that will be required to relocate and to render assistance in finding a new location.

Resolution No. 35248-031901 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent)

A communication from the City Manager advising that on May 17, 2000, Council and the Roanoke Redevelopment and Housing Authority entered into a Cooperation Agreement to undertake an initial study, preparation and research of a Redevelopment Plan; since that time, the Housing Authority has defined the boundaries of the redevelopment area, which is generally located east of Route 220, west of the Roanoke River, south of the Elm Avenue interchange with I-581, and north of Reserve Avenue and prepared the South Jefferson Redevelopment Plan; and on February 26, 2001, a public hearing on the proposed Redevelopment Plan was held by Council, the Planning Commission and the Housing Authority.

The City Manager further advised that it is expected at completion, the project will provide over a million square feet of building space, attract several million dollars of private capital investment and provide over 1,000 new technical jobs, many related to the biotechnology field; in order to go forward with the activities identified in the Plan, the Roanoke Redevelopment and Housing Authority will be required to undertake certain redevelopment activities, including property appraisal, acquisition and relocation; and estimated costs to accomplish the activities are detailed in an agreement totaling \$14 million through the year 2003; and funding for the project will be as follows:

Bond Proceeds:	\$ 12,000,000.00
Undesignated Capital Funds (interest)	1,000,000.00
Water and Sewer Fund Retained Earnings	797,500.00
Sale of Land	<u>202,500.00</u>
TOTAL	\$ 14,000,000.00

The City Manager recommended that Council adopt a measure approving the substance of the South Jefferson Cooperation Agreement 2 and authorize the City Manager to enter into the SJD Agreement 2 with the Roanoke Redevelopment and Housing Authority; authorize the City Manager to take such action and execute such documents as may be reasonably necessary for implementation and administration of the SJC Agreement 2; appropriate \$1 million of Undesignated Capital Funds for initial work by the Housing Authority; authorize the City Clerk to advertise for a public hearing on Monday, April 16, 2001, or at such other time as the City Manager may deem appropriate, to be held for the purpose of receiving citizen input on the issuance of the \$12 million in bonds under the Public Finance Act, Section 15.2-2600 et. seq., Code of Virginia (1950), as amended; and adopt a resolution of intent for the City of Roanoke to reimburse the interest income amount being appropriated from bond proceeds once issued.

(For full text, see report on file in the City Clerk's Office.)

Mr. Bestpitch offered the following emergency budget ordinance appropriating \$1 million, to provide funds for initial work to be performed by the Roanoke Redevelopment and Housing Authority:

(#35249-031901) AN ORDINANCE to amend and reordain certain sections of the 2000-01 Capital Projects Fund Appropriations, and providing for an emergency.

(For full text of ordinance, see Ordinance Book No. 64.)

Mr. Bestpitch moved the adoption of Ordinance No. 35249-031901. The motion was seconded by Mr. Hudson and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

Mr. Bestpitch offered the following emergency ordinance:

(#35250-031901) AN ORDINANCE authorizing the proper City officials to execute the South Jefferson Cooperation Agreement 2 between the City of Roanoke ("City") and the City of Roanoke Redevelopment and Housing Authority (RRHA) to provide for the RRHA to implement a Redevelopment Plan dated February 5, 2001, for a certain portion of the City as identified in that Redevelopment Plan in order to develop that area into a research and technology park to enhance and promote economic development within the City and the Roanoke Valley; and providing for an emergency.

Mr. Bestpitch moved the adoption of Ordinance No. 35250-031901. The motion was seconded by Mr. Hudson and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

Mr. Bestpitch offered the following resolution:

(#35251-031901) A RESOLUTION declaring the City's intent to reimburse itself from the proceeds of its general obligation public improvement bonds for certain moneys to be appropriated by the City to the City of Roanoke Redevelopment and Housing Authority (RRHA) for expenditures in connection with the South Jefferson Redevelopment Plan; and providing for an effective date.

Mr. Bestpitch moved the adoption of Resolution No. 35251-031901. The motion was seconded by Mr. Hudson and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

The City Manager submitted a communication advising that in early 2000, Carilion Health System (CHS) and Carilion Biomedical Institute (CBI) announced a plan to construct a building to house a biomedical institute; the City worked with CHS and CBI to convince them that the area known as the South Jefferson Redevelopment area would be a desirable location for their investment; on May 17, 2000, pursuant to Resolution No. 34842-051700, Council authorized the City Manager to negotiate a Performance Agreement with CHS and CBI, in accordance with a letter agreement dated May 15, 2000, among the parties to encourage development of the area; the City Manager has negotiated a Performance Agreement providing certain undertakings by the City, CHS and CBI; since that time, the City of Roanoke Redevelopment and Housing Authority has defined the boundaries of the above redevelopment area, which is generally located east of Route 220, west of the Roanoke River, south of the Elm Avenue interchange with I-581 and north of Reserve Avenue and prepared the South Jefferson Redevelopment Plan; on February 26, 2001, a public hearing on the proposed Plan was held by Council, the Planning Commission and the Roanoke Redevelopment and Housing Authority, with public comment supportive of the proposed Plan; and CHS and CBI now wish to be the first major occupants within the redevelopment area and the City desires to encourage this activity in order to develop a research and technology park within the area.

The City Manager further advised that in order for CHS and CBI to go forward with a proposed investment of \$10 million within 24 months of the purchase of the initial site within the redevelopment area, certain considerations will need to be made by the City of Roanoke; in addition to acquisition and clearance of property, certain infrastructure improvements will be needed in the area; the City plans to issue general obligation bonds to cover the cost of development and to provide such improvements; and CHS and CBI intend to purchase the initial site for development in accordance with the Redevelopment Plan.

The City Manager recommended that Council approve the substance of the Performance Agreement and authorize the City Manager to enter into the Performance Agreement with Carilion Health System and Carilion Biomedical Institute, to be approved as to form by the City Attorney, and that the City Manager be further authorized to take such action and execute such documents as may be reasonably necessary for implementation and administration of such Performance Agreement.

(For full text, see report on file in the City Clerk's Office.)

Mr. Hudson offered the following emergency ordinance:

(#35252-031901) AN ORDINANCE authorizing the proper City officials to execute a Performance Agreement among the City of Roanoke ("City"), Carilion Health System ("CHS") and Carilion Biomedical Institute ("CBI") that provides for certain undertakings by the parties in connection with an area of the City contained in the South Jefferson Redevelopment Plan in order to develop that area into a research and technology park to enhance and promote economic development within the City and the Roanoke Valley; and providing for an emergency.

Mr. Hudson moved the adoption of Ordinance No. 35252-031901. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

UNFINISHED BUSINESS: None.

INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS: None.

MOTIONS AND MISCELLANEOUS BUSINESS:

INQUIRIES AND/OR COMMENTS BY THE MAYOR AND MEMBERS OF COUNCIL: None.

OTHER HEARING OF CITIZENS UPON PUBLIC MATTERS: Mr. Hume Powers, 2641 Nottingham Road, S. E., inquired as to when Wiley Drive will be reopened to vehicular traffic. He advised that Wiley Drive was first opened in early 1960 and closed in early 1999, which amounts to approximately 35 years of two way traffic with few problems; the road was constructed at no expense to the taxpayers of Roanoke by Wiley N. Jackson Construction Company and donated to the City of Roanoke, and the only expense to taxpayers has been routine maintenance. He asked that Council instruct the City Manager to reopen Wiley Drive to two way vehicular traffic within 30 days and until plans for the Roanoke River Flood Reduction Project are finalized.

Items addressed under Other Hearings of Citizens are automatically referred to the City Manager for appropriate response.

At 3:25 p.m., the meeting reconvened in the City Council Chamber, with all Members of the Council in attendance, except Council Member White, Mayor Smith presiding.

ACTION: **COUNCIL:** With respect to the Closed Meeting just concluded, Mr. Harris moved that each Member of City Council certify to the best of his or her knowledge that: (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act; and (2) only such public business matters as were identified in any motion by which any Closed Meeting was convened were heard, discussed or considered by City Council. The motion was seconded by Mr. Carder and adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

OATHS OF OFFICE-COMMITTEES-ROANOKE ARTS COMMISSION: The Mayor advised that there is a vacancy on the Roanoke Arts Commission created by the resignation of Ann D. Masters, and called for nominations to fill the vacancy.

Mr. Hudson placed in nomination the name of Robert Humphreys.

There being no further nominations, Mr. Humphreys was appointed as a member of the Roanoke Arts Commission, for a term ending June 30, 2001, by the following vote:

FOR MR. HUMPHREYS: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

(Council Member White was absent.)

OATHS OF OFFICE-COMMITTEES-HOTEL ROANOKE CONFERENCE CENTER: The Mayor advised that on April 1, 2001, there will be a vacancy on the Hotel Roanoke Conference Center Commission created by the resignation of James D. Ritchie, and called for nominations to fill the vacancy.

Mr. Hudson placed in nomination the name of William White, Sr.

There being no further nominations, Mr. White was appointed as a member of the Hotel Roanoke Conference Center Commission, to fill the unexpired term of James D. Ritchie, resigned, commencing April 1, 2001, and ending April 3, 2003, by the following vote:

FOR MR. WHITE: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

(Council Member White was absent.)

OATHS OF OFFICE-COMMITTEES-COMMUNITY PLANNING: The Mayor advised that there is a vacancy on the City Planning Commission for a term ending December 31, 2004, and called for nominations to fill the vacancy.

Mr. Hudson placed in nomination the name of S. Wayne Campbell.

There being no further nominations, Mr. Campbell was appointed as a member of the City Planning Commission, for a term ending December 31, 2004, by the following vote:

FOR MR. CAMPBELL: Council Members Wyatt, Carder, Harris, Hudson and Mayor Smith-----5.

(Council Member White was absent.)

OATHS OF OFFICE-COMMITTEES-SPECIAL EVENTS: The Mayor advised that there is a vacancy on the Special Events Committee created by the resignation of Jay Stephens, and called for nominations to fill the vacancy.

Mr. Carder placed in nomination the name of H. Marie Muddiman.

There being no further nominations, Ms. Muddiman was appointed as a member of the Special Events Committee, for a term ending June 30, 2001, by the following vote:

FOR MS. MUDDIMAN: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

(Council Member White was absent.)

OATHS OF OFFICE-COMMITTEES-ZONING: The Mayor advised that there is a vacancy on the Board of Zoning Appeals created by the death of Sydnor W. Brizendine, Jr., and called for nominations to fill the vacancy.

Mr. Carder placed in nomination the name of Kermit E. Hale.

There being no further nominations, Mr. Hale was appointed as a member of the Board of Zoning Appeals, to fill the unexpired term of Sydnor W. Brizendine, Jr., ending December 31, 2001, by the following vote:

FOR MR. HALE: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

(Council Member White was absent.)

OATHS OF OFFICE-COMMITTEES-HOUSING/AUTHORITY: The Mayor advised that the terms of office of H. Victor Gilchrist, James W. Burks and Carolyn M. Bumbry as Commissioners of the Roanoke Redevelopment and Housing Authority expired on August 31, 2000, and called for nominations to fill the vacancies.

Mr. Harris placed in nomination the names of H. Victor Gilchrist, James W. Burks and Carolyn M. Bumbry.

There being no further nominations, Mr. Gilchrist, Mr. Burks and Ms. Bumbry were reappointed as Commissioners of the Roanoke Redevelopment and Housing Authority, for terms ending August 31, 2004, by the following vote:

FOR MR. GILCHRIST, MR. BURKS AND MS. BUMBRY: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

(Council Member White was absent.)

OATHS OF OFFICE-COMMITTEES-YOUTH: The Mayor advised that the term of office of Jonathan Katz as a member of the Youth Services Citizen Board will expire on May 31, 2001, and called for nominations to fill the vacancy.

Mr. Harris placed in nomination the name of Jonathan Katz.

There being no further nominations, Mr. Katz was reappointed as a member of the Youth Services Citizen Board, for a term ending May 31, 2004, by the following vote:

FOR MR. KATZ: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

(Council Member White was absent.)

At 4:55 p. m., the Mayor declared the meeting in recess until 7:00 p.m.

On Monday, March 19, 2001, at 7:00 p.m., the Roanoke City Council reconvened in regular session in the City Council Chamber, fourth floor, Noel C. Taylor Municipal Building, 215 Church Avenue, S. W., City of Roanoke, with the following Council Members in attendance, Mayor Smith presiding.

PRESENT: Council Members Linda F. Wyatt, William D. Bestpitch, William H. Carder, C. Nelson Harris, W. Alvin Hudson, Jr., and Mayor Ralph K. Smith-----6.

ABSENT: Council Member William White, Sr.-----1.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; William M. Hackworth, City Attorney; James D. Grisso, Director of Finance; and Mary F. Parker, City Clerk.

The reconvened meeting was opened with a prayer by Cadet Girl Scout Lydia Higgs, Troop 213.

The Pledge of Allegiance to the Flag of the United States of America was led by Brownie Scout Elizabeth Higgs, Troop 33.

PRESENTATIONS AND INTRODUCTIONS:

ACTS OF ACKNOWLEDGEMENT-YOUTH: Cadet Scout Lydia Higgs and others led the Members of Council in reciting the Girl Scout Promise and Law, and a certificate was presented declaring each Member of Council as an Honorary Member of the Girl Scouts organization for one day. Council Members were also presented with a box of Girl Scout cookies.

SCHOOLS: On June 30, 2001, the three year terms of office of Ruth C. Willson and Melinda J. Payne as Trustees of the Roanoke City School Board will expire.

Pursuant to Chapter 9, Education, of the Code of the City of Roanoke (1979), as amended, establishing a procedure for the election of School Trustees, on or before March 31, Council, as a Committee of the whole, will review and consider all candidates for the position of School Trustee, and at such meeting Council shall review all applications filed for the position and may elect to interview candidates for such positions, whereupon, the matter was before the body.

The Mayor introduced the following persons who submitted applications prior to the deadline on March 9, 2001, at 5:00 p.m.:

Gary M. Bowman
Melvin W. Garrett
Melinda J. Payne
Lee A. Pusha (Withdrew application
on Friday, March 16, 2001.)
William E. Skeen
Ruth C. Willson

Without objections by Council the Mayor advised that the applications would be received and filed.

PUBLIC HEARINGS:

ZONING: Pursuant to Resolution No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Monday, March 19, 2001, at 7:00 p.m., or as soon thereafter as the matter may be heard, on the request of Paul A. Duncan and Gary A. Duncan Partnership that a portion of those certain parcels of real property located at 4425 and 4431 Northwood Drive, N. W., identified as Official Tax Nos. 6140610 and 6140609, and a portion of that certain parcel of land located at 2032 Peters Creek Road, N. W., identified as Official Tax No. 6141403, be rezoned from RS-3, Residential Single Family District, to C-2, General Commercial District, subject to certain conditions proffered by the petitioner, the matter was before the body.

Legal advertisement of the public hearing was published in The Roanoke Times on March 2 and 9, 2001.

(See publisher's affidavits on file in the City Clerk's Office.)

A report of the City Planning Commission advising that in 1986, a 2.21 acre tract of land, designated as Official Tax No. 6141403, was conditionally rezoned from RG-1, General Residential District, to C-2, General Commercial District, to construct and operate a new automobile dealership; the petitioners constructed and presently operate an Audi/Saab/Acura dealership; since 1986, the petitioners have acquired two adjacent residential properties, Official Tax Nos. 6140609 and 6140610, and have re-subdivided Official Tax No. 6141403 to include an additional strip of land from these residential tracts, approximately 30 feet wide; and the purpose of the request for rezoning is to allow the construction of a new, separate Acura facility, as requested by the manufacturer, was before Council.

The City Planning Commission recommended that Council approve the request for rezoning, subject to conditions as set forth in the First Amended Petition to Rezone.

(For full text, see report on file in the City Clerk's Office.)

ACTION: Ms. Wyatt moved that the following ordinance be placed upon its first reading:

(#35253) AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 614, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City, subject to certain conditions proffered by the applicant.

(For full text of Ordinance, see Ordinance Book No. 64.)

The motion was seconded by Mr. Hudson.

The Mayor inquired if there were persons present who would like to address Council with regard to the matter; whereupon, G. Michael Pace, Attorney, representing the petitioners, advised that Acura is requiring its dealers to build stand alone or free standing dealerships; therefore, his clients wish to remain at their present location and they are requesting a rezoning of the contiguous property. He called attention to certain proffered conditions that have been reviewed by the City Attorney's Office and City Planning staff that will mitigate or lessen any impact on adjoining residential properties. He stated that to his knowledge, there is no opposition to the proposed rezoning, the use is consistent with many business uses up and down Peters Creek Road, his client has operated a first class business since 1986, and Westview Terrace property owners have expressed no opposition to the proposed rezoning.

Mr. Allen Lowe, 2035 Meadowbrook Road, N. W., advised that the petitioners have been good neighbors; however, his concern relates primarily to the potential for flooding on Peters Creek Road as a result of new construction.

Following discussion, Ordinance No. 35253, on first reading, was adopted by the following vote:

AYES: Council Members Wyatt, Carder, Hudson and Mayor Smith-----4.

NAYS: Council Members Bestpitch and Harris-----2.

(Council Member White was absent.)

ZONING: Pursuant to Resolution No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Monday, March 19, 2001, at 7:00 p.m., or as soon thereafter as the matter may be heard, on the request of Roanoke Valley SPCA and Ms. Sandra L. Overstreet, that a tract of land partially fronting on a portion of Baldwin Avenue, N. E. (8 lots), and additional property fronting on a portion of Edmund Avenue (16 lots), identified as Official Tax Nos. 3210616 - 3210620, inclusive, 3210712 - 3210722, inclusive, and 3210701 - 3210708, inclusive, be rezoned from LM, Light Manufacturing District, to HM, Heavy Manufacturing District, subject to certain conditions proffered by the petitioners, the matter was before the body.

Legal advertisement of the public hearing was published in The Roanoke Times on March 2 and 9, 2001.

(See publisher's affidavits on file in the City Clerk's Office.)

A report of the City Planning Commission advising that the SPCA currently has a contract to purchase properties adjacent to its existing animal shelter for the purpose of constructing a new regional facility; and additional property under contract for purchase is being acquired to accommodate both the animal shelter and impoundment facility, was before Council.

The City Planning Commission recommended that Council approve the request for rezoning, and advised that a regional project will address an important public need and improve the existing arrangement for an animal impoundment facility by providing a new location outside of the flood plain that is in close proximity for both City and regional users.

(For full text, see report on file in the City Clerk's Office.)

ACTION: Mr. Hudson moved that the following ordinance be placed upon its first reading:

(#35254) AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 321, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City, subject to certain conditions proffered by the applicant.

(For full text of Ordinance, see Ordinance Book No. 64.)

The motion was seconded by Mr. Carder.

W. Eric Branscom, Attorney, representing the petitioners, appeared before Council in support of the request of his clients.

The Mayor inquired if there were persons present who would like to address Council with regard to the matter. There being none, Ordinance No. 35254 was adopted, on its first reading, by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

CITYCODE-ZONING-SIGNS/BILLBOARDS/AWNINGS: Pursuant to Resolution No. 25523 adopted by the Council on Monday, April 6, 1981, the City Clerk having advertised a public hearing for Monday, March 19, 2001, at 7:00 p.m., or as soon thereafter as the matter may be heard, to consider proposed amendments to zoning regulations with regard to outdoor advertising (billboards) in the City of Roanoke, the matter was before the body.

Legal advertisement of the public hearing was published in The Roanoke Times on March 2 and 9, 2001.

(See publisher's affidavits on file in the City Clerk's Office.)

A report of the City Planning Commission advising that the Planning Commission considered proposed amendments to the City's outdoor advertising regulations at its meeting on September 21, 2000; at that time the Commission, by a vote of 4-2, recommended that Council approve the proposed amendments; the recommendation was forwarded to Council for public hearing on October 16, 2000, and Council subsequently referred the matter back to the City Planning Commission for further study, report and recommendation, was before the body.

It was further advised that City Planning staff met on January 8, 2001, with representatives of the sign industry and beautification organizations to determine if there was common ground that could be reached; it was tentatively agreed that certain changes to the ordinance could be supported to close existing loopholes and additional changes dealing with the placement of billboards, maintenance, and viewshed protection would be proposed at a later time in the year 2001; and tentatively agreed upon changes include the following:

- A new billboard could not be located within 350 feet from an existing billboard on the same side of the street.**
- Billboards could not be located within 300 feet of a residential district located within the City.**
- Billboards could not be located within 500 feet of the intersection of an arterial or collector street and a municipal corporation boundary. (Note that in the event that a boundary runs down the center of the street, a 350-foot spacing requirement would apply between billboards located beyond the 500-foot boundary/street requirement.)**
- The distance between billboards would be measured from sign to sign rather than lot to lot. A basic development plan must be submitted for new billboards and all separation distances must be documented by a survey.**

The City Planning Commission recommended that Council adopt Zoning Ordinance amendments addressing outdoor advertising.

(For full text, see report on file in the City Clerk's Office.)

Mr. Bestpitch offered the following emergency ordinance:

(#35255-031901) AN ORDINANCE amending and reordaining §36.1-25, Definitions, of Article II, Construction of Language and Definitions, and §36.1-445, Additional sign regulations, by amending subsection (a) and adding a new subsection (e), of Article IV, Supplementary Regulations, of Chapter 36.1, Zoning, of the Code of the City of Roanoke (1979), as amended, to clarify and provide appropriate spatial requirements for outdoor advertising signs; and dispensing with the second reading of the title of this ordinance.

(For full text of Ordinance, see Ordinance Book No. 64.)

ACTION: Mr. Bestpitch moved the adoption of Ordinance No. 35255-031901. The motion was seconded by Mr. Hudson.

The Mayor inquired if there were persons present who would like to address Council with regard to the matter. There being none, Ordinance No. 35255-031901 was adopted by the following vote:

AYES: Council Members Wyatt, Bestpitch, Carder, Harris, Hudson and Mayor Smith-----6.

NAYS: None-----0.

(Council Member White was absent.)

OTHER HEARING OF CITIZENS:

COMPLAINTS-POLICE DEPARTMENT: Mr. Frederick Price, 115 Salem Avenue, S. W., Mr. James Peterson, 409 18th Street, S. E., and Mr. Nicholas S. Carr, 2703 Garden City Boulevard, S. E., called attention to a parking lot owned by the City of Roanoke in the area of Salem and Norfolk Avenues (behind Billy's Ritz Restaurant), which was previously operated by Allright Parking Company as paid parking; however, the parking lot has now been assigned to Norfolk Southern. They expressed concern that the parking lot is not clearly identified as private parking during certain hours of the day; therefore, City Market patrons park in the lot, their vehicles are towed away by a local towing company, and a cost of \$90.00 is incurred to reclaim the vehicle.

COMPLAINTS-INTEGRATION/SEGREGATION: Mr. Jeff Artis, Chair, Board of Directors, Roanoke Southern Christian Leadership Conference, formally requested that Council adopt a measure specifically prohibiting Roanoke City government, or any entity thereof, from engaging in or doing business with any individual or business entity and/or their subsidiaries, that practice and/or have been found guilty of practicing discrimination of any kind, including age discrimination and discrimination based upon sexual orientation.

COMPLAINTS: Mr. Robert Gravely, 1412 Moorman Road, N. W., expressed concern with regard to the following City issues: an increase in real estate assessments, declining economy, increased housing costs, low wages for City employees, high crime rate, and corruption.

The Mayor advised that matters addressed under Other Hearing of Citizens are automatically referred to the City Manager for appropriate response.

The Monday, March 19, 2001, 12:15 p.m. regular session of the Roanoke City Council which was declared in recess until Monday, March 26, 2001, was called to order at 11:00 a.m., in the Exhibit Hall at the Roanoke Civic Center, 710 Williamson Road, N. E., with Mayor Smith presiding and the following Council Members in attendance.

PRESENT: Council Members William White, Sr., Linda F. Wyatt, William D. Bestpitch, William H. Carder, C. Nelson Harris (arrived a 11:30 a.m.), W. Alvin Hudson, Jr., and Mayor Ralph K. Smith-----7.

ABSENT: None-----0.

OFFICERS PRESENT: Darlene L. Burcham, City Manager; Elizabeth K. Dillon, Assistant City Attorney; James D. Grisso, Director of Finance; and Mary F. Parker, City Clerk.

COUNCIL: The purpose of the reconvened meeting is to hold a Planning Retreat as a follow up to the retreat which was held on July 20 and 21, 2000. The meeting was facilitated by Lyle Sumek, Lyle Sumek Associates, Inc.

Mr. Sumek presented a summary of his one-on-one conversations with the Members of Council prior to the planning retreat. He then led the group in a team building exercise designed toward recognizing interdependence on each other.

Members of Council participated in an exercise which they were asked to list the characteristics of a good leader and the characteristics of a poor leader, followed by an exercise in which they were asked to list four points for their vision for the future of Roanoke in five to ten years, to list three to four items in the next six months that need decisive action by Council, what means success to each member of Council in the next six months, and what actions need to be taken by Council at this time to be successful.

At 12:00 noon, the meeting was declared in recess for lunch.

At 1:00 p.m., the meeting reconvened in the Exhibit Hall of the Roanoke Civic Center, with all Members of the Council in attendance, except Ms. Wyatt who left the meeting during the lunch break and returned at 1:15 p.m., Mayor Smith presiding.

As a part of the above exercise, there was discussion in regard to the City's Comprehensive Plan, fire station study, Victory Stadium, restructuring of Council appointed boards and commissions, Riverside Centre, the budget process, City staff reorganization, solid waste management, and neighborhood plans.

The meeting was declared in recess at 5:10 p.m., for dinner.

At 6:00 p.m., the meeting reconvened in the Exhibit Hall of the Roanoke Civic Center with all Members of Council in attendance, Mayor Smith presiding.

Council Members participated in a discussion regarding their perception of Council meetings, and potential actions that could be initiated to make Council meetings more effective and professional.

It was the consensus of Council to set aside a day and one-half in July, 2001 for another planning retreat.

There being no further business, the Mayor declared the meeting adjourned at 8:00 p.m.

A P P R O V E D

ATTEST:

Mary F. Parker
City Clerk

Ralph K. Smith
Mayor

April 2, 2001

The Honorable Mayor and Members
of Roanoke City Council
Roanoke, Virginia

Dear Mayor Smith and Members of Council:

The New River Valley Commerce Park Participation Committee has received correspondence from David Rundgren notifying all members of the Committee that additional shares in the Commerce Park project are available due to the fact that Wythe County has chosen to withdraw from participation. Elizabeth Neu and I serve as the City of Roanoke's representatives on the Participation Committee, and we have prepared the attached report and recommendation for your consideration as a response on behalf of the City of Roanoke.

I would like to discuss this issue in more detail under the Petitions and Communications section of the April 2 City Council agenda.

Sincerely,

William D. Bestpitch
Council Member

WDB/EAN:hek

cc: Darlene L. Burcham, City Manager
William M. Hackworth, City Attorney
James D. Grisso, Director of Finance
Mary F. Parker, City Clerk

April 2, 2001

Honorable Ralph K. Smith, Mayor, and Members of City Council
Roanoke, Virginia

Dear Mayor and Members of Council:

Subject: Funding for the Fifth District Employment and Training Consortium

Background

The Fifth District Employment and Training Consortium (FDETC) administers the federally funded Workforce Investment Act (WIA) for the region, which encompasses the counties of Allegheny, Botetourt, Craig, Franklin and Roanoke as well as the cities of Clifton Forge, Covington, Roanoke and Salem. The agency's client population is primarily economically disadvantaged individuals as determined by household income guidelines set by the U.S. Department of Labor .

The City of Roanoke is the grant recipient and fiscal agent for FDETC funding, thus, City Council must appropriate the funding for all grants and other monies the FDETC receives.

Virginia Department of Social Services has notified the FDETC that a proposal to provide services under the Virginia Department of Social Services Economic and Employment Improvement Grant Program for Disadvantaged Persons has been approved. An award of \$50,000 will be given to the FDETC for the period of March 1, 2001 through June 30, 2002.

Considerations

Action by City Council is necessary to ensure that existing activities continue and planned programs are implemented. Funds to support this activity are available from the Grantor agency and other sources as indicated, at no additional cost to the City. Further, immediate action will allow transition activities to be implemented and completed within planned time frames.

Honorable Mayor and Members of Council
April 2, 2001
Page 2

Recommended Action

Appropriate the FDETC's funding totaling \$50,000 and increase the revenue estimate by \$50,000 in accounts to be established in the Consortium fund by the Director of Finance.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB:WC

c: Mary F. Parker, City Clerk
James D. Grisso, Director of Finance
William M. Hackworth, City Attorney
George C. Snead, Assistant City Manager for Community Development
Glenn D. Radcliffe, Director of Human Services

#01-414

April 2, 2001

Honorable Ralph Smith, Mayor, and Members of City Council
Roanoke, Virginia

Dear Mayor and Members of Council:

Subject: Additional State Funding

Background:

The Roanoke City Public Library has been awarded a grant of \$13,300 by The Library of Virginia. The grant is to be used to renovate and furnish a room in the Main Library for use as a computer lab. This is in support of the grant previously received from the Bill and Melinda Gates Foundation for computer equipment.

Recommended Action:

The Library of Virginia Grant be accepted and the City Manager be authorized to execute the requisite grant documents. Establish a \$13,000 revenue estimate in an account to be established by the Director of Finance. Appropriate funds in accounts to be established by the Director of Finance.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB:EK

c: Mary Parker, City Clerk
William Hackworth, City Attorney
James Grisso, Director of Finance
Emily Keyser, Acting Director of Libraries

#01-415

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION accepting the Library of Virginia Grant to the Roanoke Public Library to renovate and furnish a room in the main Library for use as a computer lab.

BE IT RESOLVED by the Council of the City of Roanoke that:

1. The City hereby accepts a Library of Virginia Grant in the amount of \$13,300.00 to be used to renovate and furnish a room in the Main Library for use as a computer lab, in support of the grants previously received from the Bill and Melinda Gates Foundation for computer equipment, as more particularly set forth in the April 2, 2001, letter of the City Manager to this Council.

2. The City Manager is authorized to execute any and all requisite documents, including any documents providing for indemnification by the City as are required for the City's acceptance of this grant, upon form approved by the City Attorney, and to furnish such additional information as may be required in connection with the City's acceptance of this grant.

ATTEST:

City Clerk.

April 2, 2001

Honorable Ralph K. Smith, Mayor, and Members of City Council
Roanoke, Virginia

Dear Mayor and Members of Council:

Subject: Authorize Execution of 2000/01 HOME Investment Partnerships
(HOME) Subgrant Agreement with the Northwest Neighborhood
Environmental Organization, Inc. (NNEO)

Background:

Historically, NNEO has received HOME Investment Partnerships (HOME) funds from the City to develop affordable housing. On May 9, 2000, City Council authorized funding for the acquisition and rehabilitation of two properties located on the 500 block of Loudon Avenue, NW. by Resolution No. 34798-050900, which approved submission of the City's 2000-2005 Consolidated Plan to the U.S. Department of Housing and Urban Development (HUD). On June 19, 2000, City Council accepted the 2000-01 HOME funds by Budget Ordinance No. 34882-061900 and Resolution No. 34883-061900.

Considerations:

In order to provide funding for NNEO to develop the Fifth Street Gateway Project approved in the City's Consolidated Plan, City Council's authorization is needed to execute a subgrant agreement with NNEO. Funding is available in Account No. 035-090-5308-5309 in the amount of \$78,700.00.

Recommended Action:

Authorize the City Manager to execute a HOME Subgrant Agreement with the NNEO, similar in content to Attachment 1.

Respectfully submitted,

Darlene L. Burcham
City Manager

Attachment: 1

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
James D. Grisso, Director of Finance
Meg T. Munton, Grants Specialist

Report # CM01-0021

AGREEMENT

This Agreement is made and entered into this first day of February, 2001, by and between the following parties:

The Grantee	City of Roanoke, Virginia 215 Church Avenue, S.W. Roanoke, Virginia 24011
The Subgrantee	Northwest Neighborhood Environmental Organization, Inc. 802 Loudon Avenue, N.W. Roanoke, Virginia 24016

WITNESSETH:

WHEREAS, by Resolution No. 34883-061900 the Roanoke City Council approved the 2000-2001 HOME Investment Partnerships (HOME) program and by Ordinance No. 34882_061900 appropriated funds therefor; and

WHEREAS, by Resolution No. _____, Roanoke City Council approved the execution of a subgrant agreement between the Grantee and the Subgrantee; and

WHEREAS, the Grantee has certified the Subgrantee to be a bona fide Community Housing Development Organization ("CHDO"), as defined by the U.S. Department of Housing and Urban Development ("HUD"); and

WHEREAS, the Subgrantee is experienced in providing services to and on behalf of citizens of low and moderate income;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. **USE OF HOME FUNDS:**

- a. Funds under this Agreement shall be used by NNEO to acquire and/or rehabilitate two (2) properties located on the 500 block of Loudon Avenue, NW, Roanoke, Virginia. Expenditures may include land and structures, title and recording, counsel's

fees, property appraisal, surveying, taxes, extermination/inspection, construction costs or other necessary, reasonable and allowable project or operating expenses. It is understood by the parties hereto that the ultimate intent of the project is sale of the properties to HOME-eligible families, as defined by the U.S. Department of Housing and Urban Development and described in paragraph 1.b.

- b. "HOME-eligible families" -- For the purposes of this Agreement, this term shall mean a family that will use the property being purchased as its principal residence and whose income, adjusted for family size, does not exceed 80% of the area median income established by HUD and in effect at the time of sale. The Subgrantee shall prepare and retain with records of the project documentation that it has determined each homebuyer family's income. Such documentation shall include the names, ages, and the sources and amounts of income anticipated for the succeeding twelve months for each individual related by birth, marriage or adoption living in the same household at the time of the determination. In the event the sale of the property to the family does not occur within six months of the income determination, a new income determination shall be made to ensure the family meets the income criteria in effect at the time of sale.
- c. Period of this Agreement -- This Agreement shall be effective as of July 1, 2000, and, unless amended, shall end December 31, 2001.
- d. Schedule -- By September 30, 2001, the Subgrantee shall have completed the rehabilitation of two properties on the 500 block of Loudon Avenue, NW, Roanoke, Virginia and by December 31, 2001, closed on their sale.
- e. Match -- Funds drawn from the Grantee's HOME Investment Trust Fund must be matched in accordance with the requirements contained in 24 CFR 92.218 through 92.222. It shall be the Grantee's responsibility to determine the amount and ensure crediting of matching funds required pursuant to this Agreement. The Subgrantee shall report regularly to the Grantee all activities which may be credited against the HOME match requirement.
- f. Budget -- The total HOME funds to be provided by the Grantee under this Agreement is \$78,700, unless amended. Of the total contract amount (\$78,700), no more than \$15,000 shall be used for CHDO operating costs. At the sole discretion of the Grantee, any funds remaining unexpended as of the end date of this Agreement may be deobligated from the Agreement and made available for other HOME or HOME/CHDO projects, as appropriate.

2. **AFFORDABILITY:**

- a. The Subgrantee shall ensure that the property(ies) assisted under this Agreement comply with the affordability requirements at 24 CFR 92.254, including, but not limited to, the following:
 - (1) Buyers of the properties shall be HOME-eligible families, as described in paragraph 1.b. above;
 - (2) The initial purchase price of each property shall not exceed \$131,100; and
 - (3) For a period of up to 15 years, depending on the total amount of HOME funds invested, each property shall be available for purchase only by a HOME-eligible family; otherwise up to the full HOME investment shall be repaid to the Grantee. These restrictions will be enforced pursuant to paragraph 13 of this Agreement.
- b. The Subgrantee shall monitor all HOME-assisted properties to ensure maintenance of their affordability for the minimum period. Monitoring procedures of the Subgrantee must be in accordance with HUD regulations.

3. **REQUESTS FOR DISBURSEMENTS OF FUNDS:**

- a. Disbursement of funds under this Agreement shall not be requested until the funds are needed for payment of eligible costs. The amount of each disbursement request must be limited to the amount needed.
- b. Requests for disbursement of funds shall be submitted to the Grantee's Department of Management & Budget, Grants Division, and shall include copies of the invoices from contractors, businesses or other entities for the work performed, documentation of CHDO operating expenses incurred, and documentation of required flood insurance on these properties. Upon approval of the request by the Grants Division and the Grantee's Project Manager, if any, the Grantee shall disburse the funds to the Subgrantee.
- c. All requests for disbursements with respect to costs incurred during the period of this Agreement, as set forth in part 1.c., must be received by the Grantee within 60 calendar days of the ending date of this Agreement. The Grantee shall not be bound to honor requests for disbursements received after this 60-day period has elapsed.

4. **PROJECT REQUIREMENTS:**

In addition to the affordability provisions described in paragraph 2. above, the Subgrantee shall comply with other applicable project requirements set forth in Subpart F of 24 CFR part 92, in accordance with the type of project assisted. Such other requirements include, but are not necessarily limited to, the following.

- a. Maximum per-unit subsidy amount -- The total amount of HOME funds invested shall not exceed \$60,869 for a one-bedroom unit, \$74,019 for a two-bedroom unit, \$95,751 for a three-bedroom unit, and \$105,105 for a unit with four or more bedrooms.
- b. Property standards -- All housing assisted under this agreement must, upon project completion, meet the property standards and lead-based paint requirements in 24 CFR 92.251 and 92.355, respectively.
- c. Conditions for religious organizations -- The Subgrantee shall not grant or loan any HOME funds to primarily religious organizations for any activity including secular activities. In addition, HOME funds may not be used to rehabilitate or construct housing owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing. In particular, there shall be no religious or membership criteria for tenants or buyers of any HOME-assisted properties.

5. **OTHER PROGRAM REQUIREMENTS:**

The Subgrantee shall carry out each activity in compliance with all federal laws and regulations described in subpart H of 24 CFR 92, except that the Subgrantee does not assume the Grantee's responsibilities for environmental review in 92.352 or the intergovernmental review process in 92.357. In particular, the following provisions apply to the project described in paragraph 1 of this Agreement:

- a. Equal Opportunity and Fair Housing -- (1) No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with HOME funds. (2) To the greatest extent feasible, contracts for work to be performed in connection with any project under this Agreement shall be awarded to business concerns which are located, or owned in substantial part by persons residing, in the Roanoke metropolitan area. (3) To the greatest extent feasible, minority business enterprises and women business enterprises shall be used when possible in the procurement of property and services.
- b. Minimizing Displacement -- The Subgrantee must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of the activities in paragraph 1 above. To the extent feasible, any existing residential tenants of the property(ies) identified in paragraph 1 above must be provided reasonable opportunity to purchase the rehabilitated property, if the existing tenants are qualified as low-income home buyers, if the property is affordable to the existing tenants after rehabilitation, and if the existing tenants can obtain mortgage financing for the purchase.

- c. Historic Review -- As part of the Grantee's environmental review responsibilities, all proposals for HOME-assisted rehabilitation or demolition in the City shall be submitted to the Grantee for determination of the structure's eligibility for inclusion on the National Register of Historic Places. If a property is historically eligible, all project plans and specifications will be submitted to the Grantee for review as to compliance with Section 106 of the National Historic Preservation Act.
- d. Lead-based Paint -- Housing assisted with HOME funds constitutes HUD-associated housing for the purpose of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.) and is, therefore, subject to 24 CFR Part 35. In accordance with these regulations, the Subgrantee shall comply with the Grantee's Lead-Based Paint Abatement policies and procedures, and in no case shall use lead-based paint in the construction or rehabilitation of the property(ies) assisted under this Agreement.
- e. Debarment and Suspension -- The Subgrantee will submit to the Grantee's Office of Grants Compliance all names of contractors and subcontractors hired for any HOME-assisted project, to determine if such contractors or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in federal transactions.
- f. Flood Insurance -- As part of the Grantee's environmental review responsibilities, the Grantee's Office of Grants Compliance will review all proposed HOME-assisted projects to determine if they are located in a flood hazard area. Since the project is located in a flood hazard area, the Subgrantee shall ensure that flood insurance under the National Flood Insurance Program is obtained and maintained for the duration of this Agreement and, in addition, all subsequent owners of properties shall maintain flood insurance for the useful life of said properties.
- g. Federal labor standards provisions B Except with respect to the rehabilitation of residential property designed for residential use for fewer than eight families, the Subgrantee and all contractors engaged under contracts in excess of Two Thousand Dollars (\$2,000.00) for the construction, rehabilitation, completion or repair of any building or work financed in whole or in part with assistance provided under this Agreement shall comply with HUD requirements pertaining to such contracts and the applicable requirements of the regulations of the United States Department of Labor ("Department of Labor") under 29 CFR Parts 3 and 5. At the present time, no labor standards are anticipated, however, should plans be expected to include more than seven (7) properties, such standards will apply retroactively to entire project.

6. **DISPOSITION OF PROCEEDS FROM SALE:**

Upon the Subgrantee's sale of each of the properties cited in section 1, gross proceeds shall be distributed: first, to repay financing provided by private lending institutions and, second, the Subgrantee shall recover its funds invested in the project. Any proceeds remaining thereafter shall be distributed according to the provisions of section 7 of this Agreement.

7. **HOME/CHDO PROCEEDS AND REPAYMENTS:**

It is expected that the housing activities assisted under this Agreement will generate a return on the investment of the HOME funds provided by the Grantee.

a. CHDO Proceeds -- All HOME project funds provided under this Agreement are classified as "CHDO Reserve Funds."

- (1) In accordance with 24 CFR 92.300(a)(2), "CHDO Proceeds" comprise returns on the investment of CHDO Reserve Funds through: the permanent financing of a CHDO project which is used to pay off a CHDO financed construction loan; the sale of CHDO developed homeownership housing; or the principal and interest payments from a loan to a buyer of CHDO developed homeownership housing.
- (2) The Subgrantee shall be permitted to retain all CHDO proceeds generated through the use of HOME/CHDO funds under this Agreement. In accordance with 24 CFR 92.300(a)(2), such CHDO proceeds shall not constitute "program income" to the HOME program and, thus, are not subject to HOME requirements, except as described below.
- (3) The Subgrantee shall use any CHDO proceeds generated under this Agreement to fund additional housing activities to benefit "eligible families," as defined in section 1.a.(2) above. Such activities may include: (a) projects typically qualifying for CHDO set-aside funds (e.g. homeownership); (b) other HOME-eligible projects (e.g. owner-occupied rehab); (c) projects normally ineligible under HOME (e.g. emergency repairs; stand-alone home-buyer counseling); or (d) CHDO operating expenses.
- (4) Prior to expending any CHDO proceeds, the Subgrantee shall submit a report to and receive written approval from the Grantee. The report shall document the amount of such proceeds and identify the activities which the Subgrantee intends to fund with the proceeds, including the anticipated date by which the proceeds are to be fully expended. Once CHDO proceeds are used, there are no further HOME requirements (i.e. funds generated from the use of CHDO proceeds are not CHDO proceeds).

- (5) With respect to any CHDO proceeds attributable to the sale, or loan payments received from homebuyers attributable to the sale, of properties assisted by HOME/CHDO funds under this Agreement, but received after the date of this Agreement's termination, the Subgrantee shall continue to adhere to the reporting and approval requirements of subsection (4) above.
- b. Properties Assisted By CDBG and HOME/CHDO Funds -- In the event a property is assisted by both CDBG and HOME/CHDO funds provided under this Agreement, any returns on the investment of these funds will be categorized as CDBG program income or CHDO proceeds proportionally, based on the percentage each source contributed funding.
 - c. Termination of Project Prior to Completion -- In the event this project is terminated before completion, as defined under the HOME Cash and Management Information System, any HOME funds disbursed to the Subgrantee, whether or not expended for project costs, shall be repaid by the Subgrantee to the HOME Investment Trust Fund.
 - d. Remittances to Grantee -- All repayments, interest and returns on the investment of HOME funds shall be returned to the Grantee within 15 days of receipt by the Subgrantee.

8. **RECORDS AND REPORTS:**

The Subgrantee agrees to submit such reports as may be requested by the Grantee concerning the activities conducted under this Agreement. Further, the following shall apply to financial and project records pertaining to this Agreement:

- a. Records to be maintained -- At a minimum, the Subgrantee shall maintain financial and project documents and records which comply with the applicable requirements of 24 CFR 92.508.
- b. Period of record retention -- The Subgrantee shall retain financial and project documents and records pertaining to this Agreement in compliance with the applicable requirements of 24 CFR 92.508(c).
- c. Access to records -- The Grantee and other entities shall have access to financial and project documents and records pertaining to this Agreement in compliance with the applicable requirements of 24 CFR 92.508(d).

9. **UNIFORM ADMINISTRATIVE REQUIREMENTS:**

As an entity operating independently from the Grantee, the uniform administrative requirements in 24 CFR 92.505 (including those related to procurement of goods and services) and the conflict of interest provisions found in 24 CFR 85.36 and OMB Circular A-110 do not apply to the Subgrantee. However, at a minimum, the Subgrantee must have financial accountability standards which conform to OMB Circular A-133 and to the "Standards for Financial Management Systems" as detailed in OMB Circular A-110.

10. **MONITORING:**

The Subgrantee shall monitor progress of the HOME-funded project covered by this Agreement, and shall submit appropriate reports to the Grantee's Office of Grants Compliance. Not less than annually, the Grantee shall monitor the Subgrantee for records retention and compliance with the regulations of 24 CFR Part 92, as referenced herein.

11. **ANNUAL AUDIT:**

As an entity receiving more than \$300,000 in federal funding from the Grantee, the Subgrantee shall be required by the Grantee to undergo an annual independent audit of the HOME expenditures under this Agreement.

12. **THIRD-PARTY CONTRACTS:**

The Grantee shall not be obligated or liable hereunder to any party other than the Subgrantee.

13. **ENFORCEMENT OF THE AGREEMENT:**

- a. In the event the Subgrantee materially fails to comply with any term of the agreement, the Grantee may suspend or terminate, in whole or in part, this Agreement or take other remedial action in accordance with 24 CFR 85.43.
- b. In the event the Subgrantee terminates this project prior to completion of the activities scheduled in paragraph 1.d. above without the prior written approval of the Grantee's Office of Grants Compliance, the Subgrantee shall be liable for repayment of any HOME funds expended.

- c. The affordability provisions referenced in paragraph 2 of this Agreement shall be enforced by a written covenant between the Subgrantee and the homebuyer as a condition of sale, and recorded with the property deed. The covenant shall provide that the Grantee be notified of any pending resale of the property for the applicable period of affordability. Such covenant shall be approved as to form by the Grantee. If affordability provisions are not met upon resale of the property, up to the full HOME investment, as applicable, shall be repaid to the Grantee in accordance with paragraph 7.d. of this Agreement.

14. **INDEMNITY:**

The Subgrantee agrees and binds itself and its successors and assigns to indemnify, keep and hold the Grantee and its officers, employees, agents, volunteers and representatives free and harmless from any liability on account of any injury or damage of any type to any person or property growing out of or directly or indirectly resulting from any act or omission of the Subgrantee including: (a) the Subgrantee's use of the streets or sidewalks of the Grantee or other public property; (b) the performance under this Agreement; (c) the exercise of any right or privilege granted by or under this Agreement; or (d) the failure, refusal or neglect of the Subgrantee to perform any duty imposed upon or assumed by Subgrantee by or under this Agreement. In the event that any suit or proceeding shall be brought against the Grantee or any of its officers, employees, agents, volunteers or representatives at law or in equity, either independently or jointly with the Subgrantee on account thereof, the Subgrantee, upon notice given to it by the Grantee or any of its officers, employees, agents, volunteers or representatives, will pay all costs of defending the Grantee or any of its officers, employees, agents, volunteers or representatives in any such action or other proceeding. In the event of any settlement or any final judgement being awarded against the Grantee or any of its officers, employees, agents, volunteers or representatives, either independently or jointly with the Subgrantee, then the Subgrantee will pay such settlement or judgement in full or will comply with such decree, pay all costs and expenses of whatsoever nature and hold the Grantee or any of its officers, employees, agents, volunteers or representatives harmless therefrom.

15. **INDEPENDENT CONTRACTOR:**

Services performed under this agreement shall be performed on an independent contractor basis and under no circumstances shall this agreement be construed as establishing an employee/employer relationship. The Subgrantee shall be completely responsible for its activities in performing services hereunder.

16. **SUCCESSORS:**

This Agreement shall be binding upon each of the parties, and their assigns, purchasers, trustees, and successors.

17. **AMENDMENTS:**

The Grantee, from time to time, may require changes in the obligations of the Subgrantee hereunder, or its City Council may appropriate further funds for the implementation of this HOME rehabilitation project. In such event or events, such changes which are mutually agreed upon by and between the Grantee and the Subgrantee shall be incorporated in written amendment to this Agreement.

18. **GOVERNING LAW:**

This Agreement shall be governed by laws of the Commonwealth of Virginia.

19. **AVAILABILITY OF FUNDS:**

HOME Investment Partnerships Program (HOME) funding to be made available by the Grantee under this Agreement is contingent upon necessary appropriations by the U.S. Congress. In the event that sufficient funds are not appropriated, at the sole discretion of the Grantee, this Agreement may be terminated in whole or in part.

20. **ANTI-LOBBYING:**

To the best of the Subgrantee's knowledge and belief, no federal appropriated funds have been paid or will be paid, by or on behalf of it, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, the Subgrantee will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year hereinabove written:

ATTEST:

CITY OF ROANOKE, VIRGINIA

By _____
Mary F. Parker, City Clerk

By _____
City Manager

ATTEST:

NORTHWEST NEIGHBORHOOD
ENVIRONMENTAL ORGANIZATION, INC.

By _____
Louise J. Penn, Secretary

By _____
James Lesniak, Executive Director

APPROVED AS TO HOME ELIGIBILITY

APPROVED AS TO FORM

Office of Grants Compliance

Assistant City Attorney

APPROVED AS TO EXECUTION

APPROPRIATION AND FUNDS
REQUIRED FOR THIS CONTRACT
CERTIFIED

Assistant City Attorney

Director of Finance
Date _____
Account # 035-090-5308-5309 - \$78,700

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the execution of a subgrant agreement with the Northwest Neighborhood Environmental Organization for administration of Community Development Block Grant (CDBG) funds for FY 2000-2001, for the development of the Fifth Street Gateway Project.

BE IT RESOLVED by the Council of the City of Roanoke as follows:

1. The City Manager and the City Clerk are hereby authorized on behalf of the City to execute and attest, respectively, a subgrant agreement, and any necessary amendments thereto, if necessary, with the Northwest Neighborhood Environmental Organization for administration of Community Development Block Grant (CDBG) funds for FY 2000-2001, for the development of the Fifth Street Gateway Project, within the limits of funds as more particularly set forth in the City Manager's report and attachment, dated April 2, 2001.

2. The form of said agreement, and any necessary amendments thereto, shall be approved by the City Attorney.

ATTEST:

City Clerk.

April 2, 2001

Honorable Ralph K. Smith, Mayor, and Members of City Council
Roanoke, Virginia

Dear Mayor and Members of Council:

Subject: Execution of a 2000/01 Agreement with Roanoke Redevelopment and Housing Authority ("RRHA") for Infrastructure Improvements Relating to the Lincoln 2000/HOPE VI Project

As part of its ongoing efforts to improve public housing at the Lincoln Terrace Development, the RRHA applied for and has been awarded a \$15.1 million HOPE VI Revitalization Grant from the U.S. Department of Housing and Urban Development ("HUD"). In support of the RRHA HOPE VI application, the City committed to provide up to \$3 million in financial assistance for both infrastructure costs of the Lincoln 2000/HOPE VI Project and housing rehabilitation loan funding for existing homeowners in the Washington Park neighborhood. Infrastructure funding to be provided by the City will support improvements in public rights-of-way and publicly dedicated easements, including, but not limited to, construction and reconstruction of streets, curbs, gutters and sidewalks and water and sewer utilities.

Considerations:

The City will provide the RRHA a total of \$2.1 million for infrastructure improvements in three yearly installments, with the \$600,000 covered by this letter being the first installment. (The remaining \$900,000 of the total \$3 million committed by the City is for housing rehabilitation and is being handled separately.) Funds for this first installment have been identified in the General Fund and Community Development Block Grant (ACDBG) program funds and from retained earnings in the Water Fund and Sewer Fund. The specific amounts and sources are as follow:

<u>Source</u>	<u>Account Name</u>	<u>Amount</u>
CDBG	Infrastructure	\$253,000
General Fund	Transfer to Capital Projects	\$100,000
Sewer Fund	Retained earnings	\$109,000
Water Fund	Retained earnings	\$138,000

The Agreement contains a mutual indemnification clause in which both parties agree to indemnify the other for damages and expenses incurred as a result of the other party's conduct. The effect of the clause is that, in certain circumstances, the City would be waiving its defense of Sovereign Immunity.

Recommended Actions:

1. Authorize the City Manager to execute the 2000/01 Agreement with the RRHA, similar in form and content to the draft attached to this report.
2. Appropriate funding in the amount of \$347,000 from the City funding sources to accounts to be established by the Director of Finance and entitled "Lincoln 2000/HOPE VI Infrastructure." CDBG funds have been previously appropriated to the proper account.

Respectfully submitted,

Darlene L. Burcham
City Manager

Attachments: 1

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
James D. Grisso, Director of Finance
John P. Baker, Executive Director, RRHA
Frank E. Baratta, Grants Specialist

Report #CM01-0023

Agreement

This Agreement is made and entered into this _____ day of _____, 2001, by and between the following parties:

The "City"	City of Roanoke, Virginia 215 Church Avenue, S.W. Roanoke, Virginia 24011
The "RRHA"	City of Roanoke Redevelopment and Housing Authority 2624 Salem Turnpike, N.W. Roanoke, Virginia 24017

WITNESSETH:

WHEREAS, the RRHA has applied for and been awarded a HOPE VI Revitalization Grant from the U.S. Department of Housing and Urban Development ("HUD") for the Lincoln 2000/HOPE VI Project (the "Project"); and

WHEREAS, in support of the RRHA HOPE VI application, the City committed to provide up to \$2.1 million in financial assistance for infrastructure costs of the Project; and

WHEREAS, pursuant to its commitment to provide financial assistance for infrastructure costs of the project, the City has identified funds to be made available from its General Fund, Water Fund, Sewer Fund and Community Development Block Grant ("CDBG") program funds; and

WHEREAS, by Resolution No. _____ the Roanoke City Council approved the execution of this Agreement between the City and the RRHA; and

WHEREAS, by Resolution No. _____ the RRHA's Board of Commissioners approved the execution of this Agreement between the City and the RRHA;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. **SCOPE OF SERVICES:**

- a. General -- The RRHA shall use the funds provided by the City under this Agreement for infrastructure improvements within public rights-of-way or publicly dedicated easements, including, but not necessarily limited to, construction and reconstruction of streets, curbs, gutters, and sidewalks and water and sewer utilities, associated with the Project. Activities shall conform to plans, designs and specifications submitted to and approved by the City's Department of Planning and Code Enforcement and/or Engineering Department or other departments, as applicable.

Such plans, designs and specifications are incorporated into this Agreement by reference.

b. Limitations -- The following limitations will apply to the indicated funding sources under this Agreement:

(1) CDBG Funds shall be used solely for costs of new infrastructure improvements in publicly dedicated rights-of-way or easements and shall not be used to repair or maintain existing infrastructure.

(2) General Funds shall be used solely for public streets, curbs, gutters or sidewalks in publicly dedicated rights-of-way.

(3) Sewer Funds shall be used solely for sanitary sewer mains, excluding service laterals, located in public streets or publicly dedicated sanitary sewer easements.

(4) Water Funds shall be used solely for public water facilities, with the exception of water meters, in public rights-of-way or on publicly dedicated easements.

2. **PERIOD OF PERFORMANCE:**

Unless amended, this Agreement shall be for the period beginning July 1, 2000, and ending September 30, 2001.

3. **BUDGET:**

The total funding provided by the City under this Agreement shall not, without amendment of the Agreement, exceed \$600,000. Funding sources and amounts are as follow:

Source

Amount

CDBG Funds
\$253,000.00

General Funds
100,000.00

Sewer Funds
109,000.00

Water funds
138,000.00

TOTAL
\$600,000.00

Expenditures from each funding source will be in accordance with the use limitations given in section 1.b. above.

4. **DISBURSEMENTS:**

- a. Disbursement requests shall be submitted no more frequently than the 15th of each month and shall include documentation satisfactory to the City and adequate to identify the specific work performed for which reimbursement is sought. Such documentation shall separate the work items for which reimbursement is sought by funding source category (i.e. CDBG funds, General Funds, Sewer Funds and Water Funds) and provide sufficient detail to ensure that payments will adhere to the limitations described in section 1.b. above. Documentation shall also include the Monthly Report described in section 5.b. below.
- b. Requests shall be submitted to the Grants Compliance office of the City's Department of Management and Budget for review and approval. Approval of each reimbursement request will be subject to validation through site inspection by personnel from the City's Department of Planning and Code Enforcement. Approval of reimbursement requests will also be subject to timely receipt of the monthly reports described in section 5.b. of this Agreement.
- c. The City reserves the right to refuse payment of any reimbursement request received from the RRHA more than thirty (30) calendar days after the expiration date set forth in section 2 of this Agreement.

5. **RECORDS AND REPORTS:**

- a. The RRHA shall maintain full and accurate records with respect to all matters covered under this Agreement. All records pertaining to this Agreement and the activities performed pursuant to it, shall be retained for a period of four (4) years after the expiration date of this Agreement or the conclusion of any legal or administrative process requiring their use, whichever is later. Appropriate City and/or HUD personnel shall have free access to these records for the period of this Agreement and the subsequent retention period. (See also section 9 of Attachment 1 to this Agreement.)

b. By the 15th calendar day following the end of each month, the RRHA shall report its progress toward completing the activities covered by this Agreement, in a format acceptable to the City. Such monthly reports shall include, but need not be limited to, the following:

- (1) The project name, period covered by the report, and the name and phone number of the person completing the report;
- (2) A narrative of the progress made during the reporting period in the activities covered under this Agreement.
- (3) A narrative regarding any circumstances encountered which may delay completion of the activities covered under this Agreement in a timely fashion and the RRHA's efforts to minimize the impact of such circumstances.
- (4) A narrative indicating any technical assistance, amendments to this Agreement or other assistance or information which the RRHA may wish to request from the City.

The RRHA agrees to submit any other reports or documentation as requested by the City concerning activities covered under this Agreement.

6. **INDEMNIFICATION:**

Each party to this Agreement shall indemnify and hold harmless the other, its officers, agents and employees, from any and all claims, liability, causes of actions, suits of any nature, costs and expenses, including reasonable attorney's fees, resulting from or arising out of the party's intentional or negligent acts or omissions with respect to the duties, rights and privileges granted in or arising under this Agreement, including without limitation, fines and penalties, violation of federal, state or local laws, or regulations promulgated thereunder, personal injury, wrongful death or property damage claims. In the event that the parties are jointly or concurrently negligent, each shall indemnify and hold harmless the other party to the extent of its own negligence.

7. **LABOR STANDARDS:**

This Agreement is subject to federal Davis-Bacon Act requirements.

- a. Except with respect to the rehabilitation of residential property designed for residential use by fewer than eight families, the RRHA and all contractors engaged under contracts in excess of \$2,000.00 for the construction, rehabilitation, completion or repair of any building or work financed in whole or in part with assistance provided under this Agreement shall comply with HUD

requirements pertaining to such contracts and the applicable requirements of the regulations of the U.S. Department of Labor, under 29 CFR Parts 3 and 5, governing the payment of wages and the ratio of apprentices and trainees to journeymen; provided that if wage rates higher than those required under such regulations are imposed by State or local law, nothing hereunder is intended to relieve the RRHA of its obligation, if any, to require payment of the higher rates. The RRHA shall cause or require to be inserted in full in any such contracts subject to such regulations, provisions meeting the requirements of 29 CFR 5.5. These provisions are detailed in Attachment 2 to this document. No award of the contracts covered under this section of the Agreement shall be made to any contractor who is at the time ineligible under the provisions of any applicable regulations of the Department of Labor to receive an award of such contract.

- b. The RRHA shall be responsible for obtaining all necessary wage determinations and for receiving, reviewing the accuracy of and correcting any errors in weekly payroll records from contractors pertaining to this Agreement and the Project. The City shall examine such records for compliance with applicable regulations during monitoring or other reviews.

8. **UNIFORM ADMINISTRATIVE REQUIREMENTS:**

The RRHA shall adhere to the uniform administrative requirements for CDBG-assisted activities as set forth in 24 CFR 570.502, including applicable U.S. Office of Management and Budget circulars.

9. **COMPLIANCE WITH OTHER FEDERAL REGULATIONS:**

The RRHA shall adhere to all other HUD conditions for CDBG-assisted activities and all other federal regulations applicable to the activities performed under this Agreement.

10. **ANNUAL AUDIT AND MONITORING:**

The RRHA shall provide for an independent, annual audit of all expenditures under this Agreement, in accordance with OMB Circular A-133. Two copies of the audit report shall be furnished to the City within 30 days after completion of the audit. In addition, it is the City's intent to conduct financial, compliance and performance monitoring of the RRHA, which may include on-site reviews, at least once during the period of this Agreement. (See also section 9 of Attachment 1 to this Agreement.)

11. **PROGRAM INCOME:**

"Program income" means gross income received by the City or RRHA directly generated from the use of CDBG funds. Program income from any and all sources shall be submitted to the City within five (5) days of its receipt by the RRHA. No program income is expected.

12. **CONFLICT OF INTEREST:**

No employee, agent, consultant, officer or appointed official of the RRHA, who is in a position to participate in a decision-making process or gain inside information with regard to any CDBG activity, may obtain a personal or financial interest in any contract, subcontract or Agreement with respect thereto, or in the proceeds thereunder, either for themselves, their family or business associates, during their tenure or for one (1) year thereafter.

13. **SUSPENSION AND TERMINATION:**

In the event the RRHA materially fails to comply with any term of the Agreement, the City may suspend or terminate, in whole or in part, this Agreement or take other remedial action in accordance with 24 CFR 85.43. The Agreement may be terminated for convenience in accordance with 24 CFR 85.44, which provides latitudes for the RRHA to initiate such actions. (See also section 10 of Attachment 1 to this Agreement.)

14. **REVERSION OF ASSETS:**

Upon expiration of this Agreement, or amendments thereto, the RRHA shall transfer to the City any CDBG funds or program income on hand at the time of expiration, or received after such expiration, and any accounts receivable attributable to the use of CDBG funds.

15. **THIRD-PARTY CONTRACTS:**

The City shall not be obligated or liable hereunder to any party other than the RRHA. Further, notwithstanding its designation of any third party or parties for the undertaking of all or any part of the program with respect to which assistance is being provided, the RRHA shall remain fully obligated under the provisions of this Agreement. Any third party shall comply with all applicable requirements of this Agreement. (See also section 5 of Attachment 1 to this Agreement.)

16. **ANTI-LOBBYING:**

To the best of the RRHA's knowledge and belief, no federal appropriated funds have been paid or will be paid, by or on behalf of it, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an office or employee of Congress, or an employee of a Member of congress in connections with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement. If any funds other than Federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, the RRHA will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying, " in accordance with its instructions.

17. **AMENDMENTS:**

This Agreement, including all of its Exhibits, represents the entire Agreement between the parties and this Agreement shall not be modified, amended, altered or changed, except by written Agreement executed by the parties.

18. **SUCCESSORS:**

This Agreement shall be binding upon each of the parties, and their assigns, purchasers, trustees, and successors.

19. **GOVERNING LAW:**

This Agreement shall be governed by laws of the Commonwealth of Virginia.

20. **AVAILABILITY OF FEDERAL FUNDS:**

CDBG funds to be made available by the City under this Agreement are contingent upon necessary appropriations by the U.S. Congress. In the event that sufficient funds are not appropriated, at the sole discretion of the City, this Agreement may be terminated in whole or in part.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year hereinabove written:

ATTEST:

FOR THE CITY:

By _____
Mary F. Parker, City Clerk

By _____
City Manager/Deputy City Manager

ATTEST:

FOR THE RRHA:

By _____
Executive Director, RRHA

APPROVED AS TO CDBG ELIGIBILITY

APPROVED AS TO FORM

By _____
Office of Grants Compliance

By _____
Assistant City Attorney

APPROVED AS TO EXECUTION
REQUIRED
CERTIFIED

APPROPRIATION AND FUNDS
FOR THIS CONTRACT

By _____
Assistant City Attorney

By _____
Director of Finance

Date _____

001-____-____-____
(\$100,000)
____-____-____-____

(\$109,000)

____-____-____-____

(\$138,000)

Acct No. 035-G01-0137-5296

(\$253,000)

Attachment 1

URBAN DEVELOPMENT
GRANT PROGRAM

U.S. DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT BLOCK
SPECIAL TERMS AND CONDITIONS
(Agreements \$10,000 or Over)

1. **"Section 3" Compliance in the Provision of Training, Employment and Business Opportunities:**

- a. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- c. The RRHA will send to each labor organization or representative of workers with which he has a collective bargaining Agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d. The RRHA will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or

recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the contractor is in violation of regulations issued by the Secretary of Housing and Urban Development 24 CFR Part 135. The RRHA will not subcontract with any contractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR part 135 and will not let any subcontract unless the contractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successor and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its RRHAs and contractors, its successors and assigns to those sanctions specified by the grant or loan Agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

- 2. **Equal Employment Opportunity:** Contracts subject to Executive Order 11246, as amended: Such contracts shall be subject to HUD Equal Employment Opportunity regulations at 24 CFR Part 130 applicable to HUD-assisted construction contracts.

The RRHA shall cause or require to be inserted in full in any non-exempt contract and subcontract for construction work, or modification thereof as defined in said regulations, which is paid for in whole or in part with assistance provided under this Agreement, the following equal opportunity clause:

During the performance of this contract, the RRHA agrees as follows:

- A. The RRHA will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The RRHA will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The RRHA agrees to post in conspicuous places available to employees and applicants for

employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- B. The RRHA will, in all solicitations or advertisements for employees placed by or on behalf of the RRHA, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- C. The RRHA will send to each labor union or representative of workers with which he has a collective bargaining Agreement or other contract or understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the RRHA's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The RRHA will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- E. The RRHA will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- F. In the event of the RRHA's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part, and the RRHA may be declared ineligible for further Government contracts or Federally-assisted construction contract procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- G. The RRHA will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (G) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor

issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each contractor or vendor. The RRHA will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a RRHA becomes involved in or is threatened with litigation with a contractor or vendor as a result of such direction by the Department, the RRHA may request the United States to enter into such litigation to protect the interest of the United States.

The RRHA further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally-assisted construction work; provided, that if the RRHA so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The RRHA agrees that it will assist and cooperate actively with the Department and the Secretary of Labor in obtaining the compliance of RRHAs and contractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor; that it will furnish the Department and the Secretary of Labor such compliance; and that it will otherwise assist the Department in the discharge of its primary responsibility for securing compliance.

The RRHA further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a RRHA debarred from, or who has not demonstrated eligibility for Government contracts and Federally-assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon RRHAs and contractors by the Department or the Secretary of Labor pursuant to Part II, Subpart D, of the Executive Order. In addition, the RRHA agrees that if it fails or refuses to comply with these undertakings, the Department may take any or all of the following actions: cancel, terminate or suspend in whole or in part the grant or loan guarantee; refrain from extending any further assistance to the RRHA under the Program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such RRHA; and refer the cause to the Department of Justice for appropriate legal proceedings.

3. **Nondiscrimination Under Title VI of the Civil Rights Act of 1964:** This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and HUD regulations with respect thereto, including the regulations under 24 CFR Part 1. In the sale, lease or other transfer of land acquired, cleared or

improved with assistance provided under this Agreement, the RRHA shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination upon the basis of race, color, religion, sex or national origin, in the sale, lease or rental, or in the use of occupancy of such land or any improvements erected or to be erected thereon, and providing that the RRHA and the United States are beneficiaries of and entitled to enforce such covenant. The RRHA, in undertaking its obligation in carrying out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself so discriminate.

4. **Section 504 and Americans with Disabilities Act:**

The RRHA agrees to comply with any federal regulation issued pursuant to compliance with the Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act, which prohibit discrimination against the disabled in any federal assisted program.

5. **Obligations of RRHA with Respect to Third-party Relationships:** The RRHA shall remain fully obligated under the provisions of the Agreement, notwithstanding its designation of any third party or parties for the undertaking of all or any part of the project with respect to which assistance is being provided under this Agreement to the RRHA. Any third party or parties designated by the RRHA shall comply with all lawful requirements imposed upon the RRHA to insure that the project, with respect to which assistance is being provided under this Agreement to the RRHA is carried out in accordance with the applicable federal requirements, including those with respect to the assumption of environmental responsibilities of the City under Section 104(h) of the Housing and Community Development Act of 1974.

6. **Interest of Certain Federal Officials:** No member of or delegate to the Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

7. **Prohibition Against Payments of Bonus or Commission:** The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining HUD approval of the application for such assistance, or HUD approval or applications for additional assistance, or any other approval or concurrence of HUD required under this Agreement, Title I of the Housing and Community Development Act of 1974, or HUD regulations with respect thereto; provided, however, that reasonable fees or bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

8. **"Section 109"**: This Agreement is subject to the requirements of Section 109 of the Housing and Community Development Act of 1974, 42 U.S.C. 3535(d). No person in the United States shall on the ground of race, color, sex, disability, religion or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this Agreement.
9. **Access to Records and Site of Employment**: This Agreement is subject to the requirements of Executive Order 11246, Executive Order 1375, Civil Rights Act of 1964, as amended. Access shall be permitted during normal business hours to the premises for the purpose of conducting on-site compliance reviews and inspecting and copying such books, records, accounts, and other material as may be relevant to the matter under investigation and pertinent to compliance with the Order, and the rules and regulations promulgated pursuant thereto by the RRHA. Information obtained in this manner shall be used only in connection with the administration of the Order, the administration of the Civil Rights Act of 1964 (as amended) and in furtherance of the purpose of the Order and that Act.
10. **Legal Remedies for Contract Violation**: If the RRHA materially fails to comply with any term of this Agreement, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the City may take one or more of the following actions, as appropriate in the circumstances:
 - a. Temporarily withhold cash payments pending correction of the deficiency by the RRHA;
 - b. Disallow all or part of the cost of the activity or action not in compliance;
 - c. Wholly or partly suspend or terminate the current Agreement; or
 - d. Take other remedies that may be legally available.

Attachment 2

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FEDERAL LABOR STANDARDS PROVISIONS

Applicability:

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A.1.(i) Minimum Wages: All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act - 29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1 (b)(2) of the Davis-Bacon Act on behalf of laborers and mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5 (a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5 (a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employers payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5 (a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be seen easily by the workers.

(ii)(a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140).

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD and its designee, to the Administrator for determination. The administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contract shall either pay the benefit as stated in the wage determination or shall pay another bona fide

fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, that the Secretary of Labor has found, upon written request of the contractor, that the applicable standards of the Davis-Bacon Act has been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140)

2. Withholding: HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is help by the same prime contractor so much of the accrued payments or advances as may be considered necessary to help pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3.(i) Payrolls and Basic Records: Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section (1)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic includes the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall

maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017)

(ii)(a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5 (a)(3)(I). This information may be submitted in any desired form. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance", signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5 (a)(3)(I) and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3.(ii)(b) of this section.

(d) The falsification of any of the above classifications may subject the contractor or

subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make records required under paragraph A.3.(i) of this section available for inspection, copying or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be ground for debarment action pursuant to 29 CFR Part 5.12.

4.(i) Apprentices and Trainees - Apprentices: Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed on his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractors as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provision of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted

to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees: Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to an individually registered program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeyman on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefit listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprenticeships. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity: The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements: The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

6. Subcontractors: The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliances by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5

7. Contract Termination; Debarment: A breach of the contract clauses in 29 CFR 5.5 may be ground for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements: All rulings and

interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Part 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards: Disputes arising out of labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor as set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employee or their representatives.

10. (i) Certification of Eligibility: By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act at 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participation in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the David-Bacon Act or 29 CFR 5.12 (a)(1) or to be awarded HUD contracts or to be awarded HUD contracts or participation in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of...influencing in any way the action of such administration...makes, utters or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees: No laborers or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any Subcontractor because such employees has filed any complaint or instituted or caused to be instituted ant proceedings or has testified or is about to testify in any proceedings under or relating to the labor standard applicable under this Contractor to his employer.

B. Contract Work Hours and Safety Standards Act: As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime Requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of forty hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.

(2) Violation; Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor or subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor or subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory, for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for Unpaid Wages and Liquidated Damages: HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (1) of this paragraph.

(4) Subcontractors: The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraph (1) through (4) of this paragraph.

C. Health and Safety:

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).

(3) The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION authorizing the appropriate City officials to enter into a 2000-2001 Agreement with the City of Roanoke Redevelopment and Housing Authority, providing funding for infrastructure improvements associated with the Lincoln 2000/HOPE VI Community Revitalization Program Project, upon certain terms and conditions.

BE IT RESOLVED by the Council of the City of Roanoke that the City Manager and City Clerk are hereby authorized to execute, seal and attest, respectively, on behalf of the City, a 2000-2001 Agreement with the City of Roanoke Redevelopment and Housing Authority, providing funding for infrastructure improvements associated with the Lincoln 2000 HOPE VI Community Revitalization Program Project, approved as to form by the City Attorney, within the limits of funds and for the purposes as are more particularly set forth in the City Manager's letter to this Council dated April 2, 2001.

ATTEST:

City Clerk.

April 2, 2001

Honorable Ralph K. Smith, Mayor, and Members of City Council
Roanoke, Virginia

Dear Mayor and Members of Council:

Subject: Appropriation of Budgeted Amount to the
Roanoke River Flood Reduction Project

In 1989, a \$7.5 million bond referendum was passed to provide partial funding for this project, and a utility tax was established to pay the debt service for the bond. In 1990, a Local Cooperation Agreement (LCA) was executed with the U.S. Army Corps of Engineers to construct this project. Under the LCA, the City committed to fund 5% of the project and construction costs, 100% of property acquisition costs, 100% of relocation costs, and 50% of recreation trail costs.

The estimated cost of the remaining City's share of this project is approximately \$12.9 million. There is a current unobligated balance of approximately \$5.4 million in the project accounts. At the appropriate time, the previously approved bond issue of \$7.5 million will be issued.

The amount of \$624,000 was included in transfers to Capital Projects Fund as part of the approved General Fund budget for fiscal year 2001 in support of this project, and now needs to be transferred to the Capital Projects Fund and appropriated in the proper Capital Projects Fund account.

Recommended Action:

Appropriate \$624,000 included in the adopted budget of General Fund account number 001-250-9310-9508 in the Capital Projects Fund account number 008-056-9620-9003, Roanoke River Flood Reduction.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB/JGR/bls

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
James D. Grisso, Director of Finance

#CM01-0027

April 2, 2001

The Honorable Ralph K. Smith, Mayor
The Honorable William H. Carder, Vice Mayor
The Honorable William D. Bestpitch
The Honorable C. Nelson Harris
The Honorable W. Alvin Hudson
The Honorable William White, Sr.
The Honorable Linda F. Wyatt

Dear Mayor Smith and Members of City Council:

SUBJECT: Passenger Rail Station

On January 16, 2001, after the Passenger Rail Service Committee presented its report, you referred the issue of designating and funding a future site for the Passenger Rail Depot to my office. After review of the report, I agree Roanoke City Council should officially designate the former Norfolk Southern passenger rail station on Shenandoah Avenue as the depot for this endeavor. Not only would this structure be restored to its previous use, but also could serve as a destination itself with the possible siting of on O. Winston Link photograph museum.

As also requested by the committee, I am including this item on the budget study agenda. The total renovation cost is estimated at \$9 million, with \$1.7 million requested from city funds.

Recommended Action: City Council adopt a resolution designating the former Norfolk Southern passenger rail station for future passenger rail service.

Respectfully submitted,

Darlene L. Burcham
City Manager

DLB:ca

c: Mary F. Parker, City Clerk
William M. Hackworth, City Attorney
James D. Grisso, Director of Finance

IN THE COUNCIL FOR THE CITY OF ROANOKE, VIRGINIA,

A RESOLUTION designating the former Norfolk Southern passenger rail station located on Shenandoah Avenue across from the Hotel Roanoke as the official depot for light rail service.

WHEREAS, this Council appointed the Passenger Rail Service Committee (“Committee”) to study the renovation and expansion of the former Norfolk Southern passenger rail station for use as the official depot in the City of Roanoke for receiving such passenger rail service, as well as other issues related to returning passenger rail service through Roanoke; and

WHEREAS, the Committee has recommended that the former Norfolk Southern passenger rail station on Shenandoah Avenue across from the Hotel Roanoke be officially designated as the site of any future passenger rail depot for the City of Roanoke.

THEREFORE, BE IT RESOLVED by the Council of the City of Roanoke that the former Norfolk Southern Passenger Rail Station located on Shenandoah Avenue across from the Hotel Roanoke is hereby designated as the official depot for passenger rail service through the City.

ATTEST:

City Clerk.

Department of Finance
City of Roanoke, Virginia

April 2, 2001

TO: Honorable Mayor and Members of City Council
FROM: James D. Grisso, Director of Finance
SUBJECT: February Financial Report

This financial report covers the first eight months of the 2000-2001 fiscal year. The following narrative discusses revenues and expenditures to date.

REVENUE

General Fund revenues reflect a decrease of .93% or \$840,000 compared to FY00. Variances in specific categories of revenues are as follows:

General Property Taxes are up .55% or \$151,000. The first installment of real estate tax was due on October 5, and the second installment will be due April 5. Real estate revenues in FY 2001 are projected to post a gain of approximately 4% over the FY 2000 year. Real estate tax revenues through the end of February have only slightly increased over the same period in the prior fiscal year. While collections of delinquent taxes are up, timing differences in the collection of the second installment have caused overall growth to lag projections. This category is still anticipated to meet targeted revenue estimates, however, as the second installment is fully collected. Personal property tax revenue is below the prior year, but the majority of this revenue is received near the end of the fiscal year.

Other Local Taxes have increased 1.93% or 621,000. Prepared food and beverage tax revenue is ahead of the prior year due to several new restaurant openings. Sales tax continues to lag projections and is also slightly lower in the current year than through February of FY 2000. Continued regional competition and the declining economy affect this revenue. The water utility consumer tax increased as a result of the increase in water rates. Additionally, the cable television franchise fee revenue has increased and there has been an increase in the Right-of-Way use fee. Cellular phone tax has increased due to the rising number of cell phone subscribers. Lastly, Transient Occupancy Tax is up as a result of timing differences in the collection of the tax.

Fines and Forfeitures are below prior year collections by 9.23% or \$57,000. The decline is due to decreased collections of General District Court fines. This decrease is partially offset by an increase in parking ticket revenue.

Revenue from Use of Money and Property declined 9.99% or \$72,000. The State is billed for use of the Commonwealth Building monthly based on estimated operating and maintenance costs. In August of FY00, the State was billed for the amount that actual costs exceeded estimated costs, producing significantly higher revenue in FY00. No additional amounts were billed in FY01. This decrease is partially offset by an increase in interest income resulting from higher average daily cash balances in the General Fund.

Grants-in-Aid Commonwealth decreased \$1,677,000 or 6.65% and is at only 38% of the revenue estimate for the year due to timing differences in the receipt of Comprehensive Services Act and Law Enforcement (HB599) funding.

Charges for Services rose \$190,000 or 8.44% due to an increase in weed cutting and demolitions billings. These revenues were down in FY2000, compared to historical performance.

Miscellaneous Revenue is up \$26,000 or 21.85% resulting from having two surplus property sales in fiscal year 2001 as opposed to one sale at this same point in time in the prior year. An increase in the volume of worn out vehicles necessitated the additional sale in the current fiscal year.

EXPENDITURES AND ENCUMBRANCES

General fund expenditures and encumbrances have increased 8.14% or \$9,164,000 since FY00. Personal service costs of many departments increased due to timing differences associated with payroll processing. Three payrolls were processed in January 2001 while three payrolls were not processed until March of 2000. This timing difference caused personal services expenditures to increase approximately 6.5% through February. Other variances in individual expenditure categories are discussed as follows:

General Government expenditures have increased 9.67% or \$685,000, as a result of the incorporation of Assistant City Managers' expenditures that were previously accounted for in their own departments or funds.

Judicial Administration expenditures are up \$770,000 or 25.65%. Juvenile and Domestic Relations Court Services costs to house children detained by the courts have increased from the prior year. Beginning in June 2000, children detained by the court are housed at the Roanoke Valley Detention Center instead of the City-operated detention home. Expenditures of the City-operated juvenile detention home were reported under the Public Safety category in prior years.

Public Works expenditures have grown 6.72% or \$1,062,000. This increase is due in part to timing differences associated with payments on the annual street paving contract.

Community Development expenditures have gone up 29.63% or \$622,000. Expenditure increases have occurred across-the-board in the Department of Planning and Code Enforcement related to its recent re-organization and activities associated with the Comprehensive Plan. The Department of Economic Development has incurred additional costs related to the opening of a new office at an off-site location. Memberships and Affiliations expenditures also increased mostly due to a capital contribution paid to Center in the Square.

Transfer to Debt Service Fund is up \$2,131,000 or 22.12% on a year-to-date basis due to our requirement to make the first payment on the Series 1999 General Obligation Bonds. This was partially offset by decreased principal payments made on the Series 1994 and 1997B General Obligation Bonds.

Transfer to School Fund is up 6.10% or \$1,757,000 as a result of the 3.5% increase in local funding of the schools and the appropriation of \$706,933 of the \$1,508,691 in CMERP funds allocated to the schools.

Nondepartmental expenditures increased 9.29% or \$625,000. Transfers to the Capital Projects Fund increased due to transfers of funding for Greater Gainsboro property acquisition, infrastructure and parking garage. Funds were also transferred for the new police building and various other capital projects. Transfers to the Department of Technology increased to fund priority CMERP projects and equipment needs.

I would be pleased to answer questions which City Council may have regarding the monthly financial statements.

Director of Finance

April 2, 2001

The Honorable Mayor and Members
of the Roanoke City Council
Roanoke, Virginia

Dear Mayor Smith and Members of Council:

The committee appointed by Council on January 8, 2001, to review and make recommendations regarding restructuring of the City's authorities, boards, commissions and committees (hereinafter referred to as boards and commissions) has met on several occasions and provided the Members of Council with preliminary recommendations for review.

After reviewing your input and/or suggestions, the committee wishes to submit the following for consideration by Council:

Discontinue the following commissions, committees and task force:

- @ Economic Development Commission
- @ Revenue Study Commission
- @ City Taxes Committee (Has not met for approximately ten years.)
- @ Downtown Housing Task Force
- @ Metropolitan Transportation Planning District Study Committee
- @ Roanoke Valley Cooperative Study Committee
- @ City Investment Committee
- @ Set-off Debt Collections Board
- @ Bid Specifications Committee (Initially appointed to study vehicular equipment purchases; the Virginia Procurement Code satisfactorily addresses such issues; and bid committees to review construction procurement bids will continue to be appointed.)
- @ Upper Roanoke River Sub-area Advisory Committee (City representatives)
- @ Center in the Square Board of Directors (City representative)
- @ Water Resources Committee (City business will be conducted more expeditiously if matters routinely addressed by the committee are forwarded directly to City Council; City real estate transactions will be expedited by approximately 30 days; matters that are routinely addressed by the committee are forwarded to Council for approval; and six members of Council currently serve on the committee.)

The Honorable Mayor and Members
of Roanoke City Council
April 2, 2001
Page 2

The procedure for electing Trustees to the Roanoke City School Board as set forth in Chapter 9, Education, Code of the City of Roanoke (1979), as amended, will remain the same, with one exception; i.e.: elimination of the public reception for School Board applicants.

Effective July 1, 2001, establish a uniform process for appointing members to the City Planning Commission, Board of Zoning Appeals, Architectural Review Board, Roanoke Redevelopment and Housing Authority and Industrial Development Authority, through a phased in approach beginning with the Architectural Review Board (two vacancies on October 1, 2001), the Industrial Development Authority (two vacancies on October 20, 2001) and the Board of Zoning Appeals (two vacancies on December 31, 2001). The City Clerk will advertise the vacancies 45 days prior to expiration of the term of office, copies of all applications will be forwarded to City Council for review, and Council will select no more than three persons to be interviewed in closed session for each vacancy.

Provide a stipend for current members of the City Planning Commission and the Board of Zoning Appeals, upon completion of a certification program. New appointees will be required to attain certification within one year of the date of appointment. A majority of the current members of the City Planning Commission have attained their certification through the Virginia Certified Planning Commissioners Program sponsored by Virginia Tech, and Virginia Tech also offers a Virginia Certified Board of Zoning Appeals Program. Since there is no certification program for School Board Trustees, members should be encouraged to attend Virginia School Board Association activities where they are awarded points based upon participation in various programs and conferences. The City Manager recommends that this stipend be \$1200 annually.

The committee would like to continue to review the duties and responsibilities of the Board of Zoning Appeals including conducting a survey on boards in other Virginia municipalities to determine if the responsibilities should be modified.

Amend Section 36.1-640 of the Code of the City of Roanoke (1979), as amended, relating to the Architectural Review Board to delete that portion which provides, "All members shall have an interest, competency, or knowledge of historic preservation. At least one of the members appointed shall be selected from the membership of the City Planning Commission, at least two members shall be registered architects, and at least one member shall be a person who has demonstrated knowledge of and interest in the history of the City."

Council Members, in liaison capacities, serve as a conduit between their respective committees and the Members of Roanoke City Council; therefore, Council Members should not be expected to attend all committee meetings. Committee meetings should be scheduled at times that do not conflict with regularly scheduled City Council meetings in the event that the presence of the liaison Council Member is needed.

The Honorable Mayor and Members
of Roanoke City Council
April 2, 2001
Page 3

All Council-appointed boards and commissions should file written reports with Council within 60 days of the conclusion of each fiscal year which shall summarize the work of the committee for such fiscal year, including a report of the attendance of its membership at regular and special meetings of such body for the previous fiscal year. Such reports should be filed with the City Clerk and forwarded to the Members of Council for review. In addition, each board and commission shall file copies of the minutes with the City Clerk which will be kept on file in the Clerk's Office for public inspection.

Whenever possible, only Roanoke City residents should be appointed to City Council-appointed boards and commissions.

The Cultural Services Committee and the Roanoke City Arts Commission should be consolidated.

The fifth Monday in April, July, October and December, 2001 and future fifth Mondays from 12:15 p.m. - 5:00 p.m. will be devoted to Council work sessions, at which time the City Manager will schedule appropriate staff briefings; however, the first 90 minutes of the work session will include reports by Council Members in connection with their respective liaison roles to the various boards and commissions.

Members of Council are encouraged to attend at least one meeting per year of the School Board, City Planning Commission, Board of Zoning Appeals, Architectural Review Board, Industrial Development Authority and the Roanoke Redevelopment and Housing Authority. Minutes of the meetings are filed in the City Clerk's Office and copy will be provided by the Clerk to any member of Council upon request.

Members of the Roanoke City School Board, City Planning Commission and Roanoke Redevelopment and Housing Authority should be advised that there is an option of having their meetings televised on RVTv-Channel 3, and additional funds will be appropriated by the City to the RVTv budget to cover the expense should they elect to televise meetings.

Monthly meetings should be held by the Industrial Development Authority and staffed by the City's Economic Development Department.

City Council will meet with the Roanoke City School Board, Roanoke Redevelopment and Housing Authority, City Planning Commission, Board of Zoning Appeals, Industrial Development Authority and Architectural Review Board annually in a work session for the

The Honorable Mayor and Members
of Roanoke City Council
April 2, 2001
Page 4

purpose of planning/goal setting. (Dinner meetings could be scheduled on the third Monday, with the understanding that the Council meeting will convene at 2:00 p.m., rather than 12:15 p.m.)

The City of Roanoke Transportation Safety Commission should be represented by the following interests: a member of Council, City Traffic Engineer, Valley Metro General Manager, Transportation Manager of the Roanoke City Schools, neighborhood representative, greenway/bicycle representative, disabled representative, judicial representative, police department representative, railroad representative, and a youth representative. All categories are currently represented, except a person representing the disabled community, a judicial representative and a youth representative. Currently, there is one vacancy on the Transportation Safety Commission and when filling future vacancies, Council is encouraged to take into consideration the need to fill the positions with persons representing those categories that are not presently represented.

Meetings of the Greater Roanoke Transit Company Board of Directors will be held on an as needed basis, rather than monthly.

It has been our pleasure to review the process for appointing persons to City Council-appointed boards and commissions and to submit recommendations that we believe will streamline and improve the procedure for future appointments.

Sincerely,

William H. Carder
Vice-Mayor

Linda F. Wyatt
Council Member

Darlene L. Burcham
City Manager

William M. Hackworth
City Attorney

Mary F. Parker
City Clerk

mth

March 19, 2001

To: Members, Water Resources Committee

From: Sarah E. Fitton, Engineering Coordinator
thru Darlene L. Burcham, City Manager

Subject: Property Rights Acquisition for Airport Road Signalization Project

Signalization for the two intersections of Airport Road at Towne Square Boulevard and Airport Road at Municipal Drive, NW, have been on the City's list for future traffic signalization for several years, but these intersections were not ranked high enough to be funded from the latest bond referendum. Roanoke County, which adjoins Airport Road on the east side of the road, offered to fund fifty percent of the \$350,000 estimated cost to signalize these two intersections. City Council authorized execution of an agreement with the County on April 3, 2000, that agreed to this share in the project cost. Funding for the City's \$175,000 share is available in Airport Road Traffic Signals Account No. 008-052-9577.

The project consists of geometric improvements and signalization of the two intersections of Airport Road at Towne Square Boulevard and Airport Road at Municipal Drive, NW. Plans have been sufficiently developed to identify the property rights that will be needed for construction of the project and are shown on Attachment 1. Authorization is needed to move forward with acquisition of the necessary property rights. If it becomes apparent during negotiations with property owners that it would be advantageous to change the type of property rights we are acquiring, we will need to return to Council for additional authority. The estimated cost for acquisition of all property rights is \$120,000. See Attachments 2 and 3 for maps of the two intersections.

Recommended Action(s):

Authorize the City Manager to acquire all property rights as shown on the attached list. Said property rights may be acquired, following a satisfactory environmental site inspection, by negotiation or eminent domain and include rights-of-way, permanent drainage easements, and temporary construction easements.

Attachments: 3

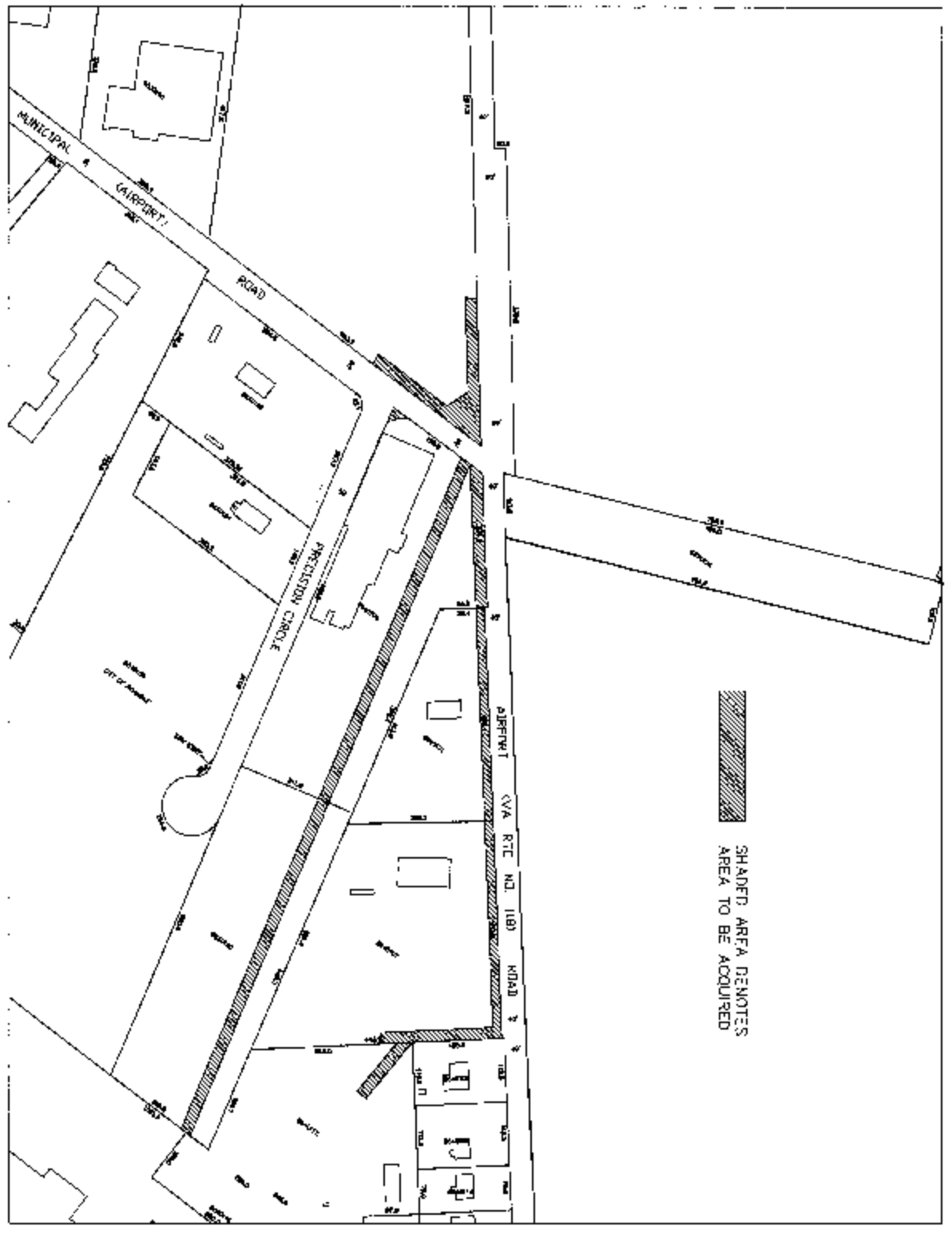
c: William M. Hackworth, City Attorney
Mary F. Parker, City Clerk
James D. Grisso, Director of Finance
Sarah E. Fitton, Engineering Coordinator

ATTACHMENT 1

AIRPORT ROAD SIGNALIZATION PROJECT

<u>Tax No.</u>	<u>Property Owner</u>	<u>Property Rights</u>
6630101	Murray K. Coulter, Trust	R/W, TCE
6640106	A & M Enterprises, LLC	R/W, DE, TCE
6640107	Kippin Properties, LP	R/W, TCE
6640112	A & M Enterprises, LLC	DE, TCE
6640120	A & M Enterprises, LLC	DE, TCE
6640121	Kippin Properties, LP	R/W, TCE
2191103	Harrison & Barbara Stapleton	TCE
2191102	Derek & Brenda Norwinski	TCE
2191101	John & Cynthia Gauldin	R/W, TCE
38.14-1-8	Stella C. Goode, Estate	R/W, TCE
38.14-1-9	Betty L. Howell	TCE
38.14-1-10	James & Jane Clifton	TCE
38.14-1-11	Michael & Heather Hiler	TCE

Legend: R/W – Right-of-way
DE – Drainage Easement
TCE – Temporary Construction Easement



Attachment 3

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

AN ORDINANCE to amend and reordain certain sections of the 2000-2001 General Fund Appropriations.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that certain sections of the 2000-2001 General Fund Appropriations, be, and the same are hereby, amended and reordained to read as follows, in part:

Appropriations

Public Works	\$ 24,333,743
Building Services (1).....	3,643,530
Solid Waste Management - Refuse (2).....	5,544,466

Fund Balance

Reserved for CMERP - City (3)	\$ 1,379,500
-------------------------------------	--------------

1) Maintenance of		
Fixed Assets	(001-440-4330-3057)	\$ 142,091
2) Expendable		
Equipment		
(<\$5,000)	(001-530-4210-2035)	35,020
3) Reserved for		
CMERP - City	(001-3323)	(177,111)

BE IT FURTHER ORDAINED that this Ordinance shall be in effect from its passage.

ATTEST:

City Clerk.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 614, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City, subject to certain conditions proffered by the applicant.

WHEREAS, Paul A. Duncan and Gary A. Duncan Partnership, has made application to the Council of the City of Roanoke to have the hereinafter described property rezoned from RS-3, Residential Single Family District, to C-2, General Commercial District, subject to certain conditions proffered by the applicant; and

WHEREAS, the City Planning Commission, which after giving proper notice to all concerned as required by §36.1-693, Code of the City of Roanoke (1979), as amended, and after conducting a public hearing on the matter, has made its recommendation to Council; and

WHEREAS, a public hearing was held by City Council on said application at its meeting on March 19, 2001, after due and timely notice thereof as required by §36.1-693, Code of the City of Roanoke (1979), as amended, at which hearing all parties in interest and citizens were given an opportunity to be heard, both for and against the proposed rezoning; and

WHEREAS, this Council, after considering the aforesaid application, the recommendation made to the Council by the Planning Commission, the City's Comprehensive Plan, and the matters presented at

the public hearing, is of the opinion that the hereinafter described property should be rezoned as herein provided.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 614 of the Sectional 1976 Zone Map, City of Roanoke, be amended in the following particular and no other:

A portion of those certain parcels of real property located at 4425 and 4431 Northwood Drive, N.W., and designated on Sheet No. 614 of the Sectional 1976 Zone Map, City of Roanoke, as Official Tax Nos. 6140610 and 6140609, respectively, and a portion of that certain parcel of real property located at the intersection of Peters Creek Road, N.W., and Woodbridge Avenue, N.W., and designated on Sheet No. 614 of the Sectional 1976 Zone Map, City of Roanoke, as Official Tax No. 6141403, be, and are hereby rezoned from RS-3, Residential Single Family District, to C-2, General Commercial District, as more specifically identified in the First Amended Petition filed in the Office of the City Clerk on February 12, 2001, and subject to the proffers contained in that petition, and that Sheet No. 614 of the Zone Map be changed in this respect.

ATTEST:

City Clerk.

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA,

AN ORDINANCE to amend §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 321, Sectional 1976 Zone Map, City of Roanoke, to rezone certain property within the City, subject to certain conditions proffered by the applicant.

WHEREAS, Roanoke Valley SPCA and Sandra L. Overstreet, has made application to the Council of the City of Roanoke to have the hereinafter described property rezoned from LM, Light Manufacturing District, to HM, Heavy Manufacturing District; and

WHEREAS, the City Planning Commission, which after giving proper notice to all concerned as required by §36.1-693, Code of the City of Roanoke (1979), as amended, and after conducting a public hearing on the matter, has made its recommendation to Council; and

WHEREAS, a public hearing was held by City Council on said application at its meeting on March 19, 2001, after due and timely notice thereof as required by §36.1-693, Code of the City of Roanoke (1979), as amended, at which hearing all parties in interest and citizens were given an opportunity to be heard, both for and against the proposed rezoning; and

WHEREAS, this Council, after considering the aforesaid application, the recommendation made to the Council by the Planning Commission, the City's Comprehensive Plan, and the matters presented at the public hearing, is of the opinion that the hereinafter described property should be rezoned as herein

provided.

THEREFORE, BE IT ORDAINED by the Council of the City of Roanoke that §36.1-3, Code of the City of Roanoke (1979), as amended, and Sheet No. 321 of the Sectional 1976 Zone Map, City of Roanoke, be amended in the following particular and no other:

A tract of land partially fronting on a portion of Baldwin Avenue, N.E. (8 lots), and additional property fronting on a portion of Edmund Avenue, N.E. (16 lots), bearing Official Tax Nos. 3210616 through 3210620, 3210712 through 3210722; and 3210701 through 3210708, all sequences inclusive, be, and are hereby rezoned from LM, Light Manufacturing District, to HM. Heavy Manufacturing District, as set forth in the Second Amended Petition filed in the Office of the City Clerk on March 8, 2001, and that Sheet No. 321 of the Zone Map be changed in this respect.

ATTEST:

City Clerk.

BESTPITCH
35256



ROANOKE CITY COUNCIL
REGULAR SESSION

APRIL 2, 2001
12:15 P.M.

CITY COUNCIL CHAMBER
AGENDA FOR THE COUNCIL

- 1. Call to Order--Roll Call.** (Council Members Harris and White were absent.)

A report of the City Attorney requesting a Closed Meeting to consult with legal counsel on a matter of pending litigation, pursuant to Section 2.1-344 (A)(7), Code of Virginia (1950), as amended. **(Approved 5-0)**
File #83-132

A communication from the City Manager requesting a Closed Meeting to discuss the acquisition of real property for a public purpose, where discussion in open meeting would adversely affect the bargaining position or negotiating strategy of the City, pursuant to Section 2.1-344 (A)(3), Code of Virginia (1950), as amended. **(Approved 5-0)**
File #2-132

A communication from the City Manager requesting a Closed Meeting to discuss the disposition of publicly held property, pursuant to Section 2.1-344 (A)(3), Code of Virginia (1950), as amended. **(Approved 5-0)**
File #2-132

A communication from the Honorable Ralph K. Smith, Mayor, requesting a Closed Meeting to discuss vacancies on various authorities, boards, commissions and committees appointed by Council, pursuant to Section 2.1-344 (A)(1), Code of Virginia (1950), as amended. **(Approved 5-0)**
File #110-132

**AT 1:55 P.M., THE MEETING OF ROANOKE CITY COUNCIL WAS
DECLARED IN RECESS TO BE RECONVENED AT 2:00 P.M.**



***ROANOKE CITY COUNCIL
REGULAR SESSION***

***APRIL 2, 2001
2:00 P.M.***

CITY COUNCIL CHAMBER

AGENDA FOR THE COUNCIL

1. Call to Order--Roll Call. (All Present)

The Invocation was delivered by Council Member C. Nelson Harris.

The Pledge of Allegiance to the Flag of the United States of America was led by Mayor Ralph K. Smith.

Welcome. Mayor Smith.

NOTICE:

Meetings of Roanoke City Council are televised live on RVTv Channel 3. Today's meeting will be replayed on Channel 3 on Thursday, April 5, 2001, at 7:00 p.m., and Saturday, April 7, 2001, at 4:00 p.m. Council meetings are now being offered with closed captioning for the hearing impaired.

ANNOUNCEMENTS:

THE PUBLIC IS ADVISED THAT MEMBERS OF COUNCIL RECEIVE THE CITY COUNCIL AGENDA AND RELATED COMMUNICATIONS, REPORTS, ORDINANCES AND RESOLUTIONS, ETC., ON THE THURSDAY PRIOR TO THE COUNCIL MEETING TO PROVIDE SUFFICIENT TIME FOR REVIEW OF INFORMATION. CITIZENS WHO ARE INTERESTED IN OBTAINING A COPY OF ANY ITEM LISTED ON THE AGENDA MAY CONTACT THE CITY CLERK'S OFFICE, ROOM 456, NOEL C. TAYLOR MUNICIPAL BUILDING, 215 CHURCH AVENUE, S. W., OR CALL 853-2541.

THE CITY CLERK'S OFFICE NOW PROVIDES THE CITY COUNCIL AGENDA PACKAGE ON THE INTERNET FOR VIEWING AND RESEARCH PURPOSES. TO ACCESS THE AGENDA MATERIAL, GO TO THE CITY'S HOMEPAGE AT www.roanokegov.com, CLICK ON THE ROANOKE CITY COUNCIL ICON, CLICK ON MEETINGS AND AGENDAS, AND DOWNLOAD THE ADOBE ACROBAT SOFTWARE TO ACCESS THE AGENDA.

ALL PERSONS WISHING TO ADDRESS COUNCIL ARE REQUESTED TO REGISTER WITH THE STAFF ASSISTANT WHO IS LOCATED AT THE ENTRANCE TO THE COUNCIL CHAMBER. ON THE SAME AGENDA ITEM, ONE TO FOUR SPEAKERS WILL BE ALLOTTED FIVE MINUTES EACH, HOWEVER, IF THERE ARE MORE THAN FOUR SPEAKERS, EACH SPEAKER WILL BE ALLOTTED THREE MINUTES.

PRESENTATIONS:

**Proclamation declaring the week of April 8 - 14 as National Telecommunicator's Week; and a resolution recognizing the Roanoke Public Safety Telecommunicator of the Year 2001 in the City's 911 Communications Center.
Adopted Resolution No. 35256-040201. (7-0)
File #3-80-262**

Proclamation declaring the month of April 2001 as Fair Housing Month.
File #3-178

2. CONSENT AGENDA

(Approved 7-0)

ALL MATTERS LISTED UNDER THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE MEMBERS OF CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THE ITEMS. IF DISCUSSION IS DESIRED, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

- C-1 Minutes of the regular meeting of Roanoke City Council held on Monday, March 19, 2001, and the reconvened meeting on Monday, March 26, 2001.

RECOMMENDED ACTION: Dispense with the reading thereof and approve as recorded.

- C-2 A communication from Mary S. Neal tendering her resignation as the City Manager's designee to the Cultural Services Committee, effective immediately.
File #110-394

RECOMMENDED ACTION: Receive and file the communication and accept the resignation.

- C-3 Qualification of the following persons:

Kermit E. Hale as a member of the Board of Zoning Appeals to fill the unexpired term of Sydnor W. Brizendine, Jr., deceased, ending December 31, 2001; and
File #15-51-110

Michael W. Ridenhour as a member of the Roanoke Neighborhood Partnership Steering Committee for a term ending November 30, 2003.

File #15-110-488

RECOMMENDED ACTION: Receive and file.

REGULAR AGENDA

Selection of persons to be accorded the public interview for Roanoke City School Board Trustee on Thursday, April 19, 2001, at 4:00 p.m., for terms commencing July 1, 2001, and ending June 30, 2004. Applicants are:

Gary M. Bowman
Melvin W. Garrett
Melinda J. Payne
William E. Skeen
Ruth C. Willson

Council unanimously voted to publicly interview the abovenamed persons.

File #467

3. HEARING OF CITIZENS UPON PUBLIC MATTERS:

- a. Request of the Roanoke Regional Chamber of Commerce to address Council with regard to Victory Stadium. Bruce Wood, Vice-Chair, Public Policy and Strategic Issues, Spokesperson.

Received and filed.

File #99-122

- b. Request to present the Roanoke Regional Airport 2001-02 proposed Operating and Capital Purchase Budget, and proposed capital expenditures. Jacqueline L. Shuck, Executive Director, Spokesperson.

Adopted Resolution No. 35257-040201. (7-0)

File #9-60

4. PETITIONS AND COMMUNICATIONS:

- a. A communication from Council Member William D. Bestpitch, City representative to the New River Valley Commerce Park Participation Committee, with regard to purchasing additional shares in the Commerce Park project.

**Inasmuch as there are other jurisdictions that have an interest in purchasing the shares, Council voted to stay within the current share ownership of 10,000 and not purchase its pro rata portion of additional shares, thereby allowing additional shares to adhere to other interested jurisdictions. The City Attorney was requested to correspond with the New River Valley Commerce Park Participation Committee stating the City's position.
File #450**

5. REPORTS OF OFFICERS:

- a. CITY MANAGER:

BRIEFINGS: None.

ITEMS RECOMMENDED FOR ACTION:

1. A communication recommending appropriation of \$50,000.00 in connection with the Fifth District Employment and Training Consortium.

**Adopted Budget Ordinance No. 35258-040201. (7-0)
File #60-246**

2. A communication recommending acceptance of a grant from the Library of Virginia, in the amount of \$13,000.00, for a computer lab in the Main Library; and appropriation of funds in connection therewith.

**Adopted Budget Ordinance No. 35259-040201 and
Resolution No. 35260-040201. (7-0)
File #60-236-323**

3. A communication recommending execution of a subgrant agreement with the Northwest Neighborhood Environmental Organization for administration of Community Development Block Grant (CDBG) funds for fiscal year 2000-01, for development of the Fifth Street Gateway Project.

Adopted Resolution No. 35261-040201. (7-0)
File #165-236

4. A communication recommending authorization to enter into a 2000-01 Agreement with the City of Roanoke Redevelopment and Housing Authority, in connection with infrastructure improvements associated with the Lincoln 2000 HOPE VI Community Revitalization Program Project; and appropriation of \$347,000.00 in connection therewith.

Adopted Budget Ordinance No. 35262-040201 and Resolution No. 35263-040201. (7-0)
File #60-178

5. A communication recommending appropriation of \$624,000.00 in connection with the Roanoke River Flood Reduction Project.

Adopted Budget Ordinance No. 35264-040201. (7-0)
File #60-237

6. A communication recommending appropriation of \$34,790.00 in connection with infrastructure improvements for the Foot Levelers, Inc. Project.

Adopted Budget Ordinance No. 35265-040201 and Ordinance No. 35266-040201. (7-0)
File #60-207-450

At 2:35 p.m., the meeting was declared in recess for continuation of a closed session.

At 3:40 p.m., the meeting reconvened in the City Council Chamber.

7. A communication recommending designation of the former Norfolk Southern passenger rail station located on Shenandoah Avenue across from The Hotel Roanoke as the official depot for light rail service through the City.

Adopted Resolution No. 35267-040201. (7-0)

The City Clerk was instructed to forward a letter to the Passenger Rail Service Committee acknowledging the Committee's work.

**Council Member White requested that the matter of state funding for passenger rail service be referred to the Legislative Committee for discussion in connection with the City's proposed 2002 Legislative Program.
File #110-223-533**

b. **DIRECTOR OF FINANCE:**

1. Financial report for the month of February 2001.

**Received and filed.
File #1-10**

6. REPORTS OF COMMITTEES:

- a. A report of the committee appointed to study restructuring of Council-Appointed boards and commissions. Vice-Mayor William H. Carder, Chair.

**Council concurred in the recommendations and referred the report to the City Attorney for preparation of the proper measures.
File #110-132**

- b. A report of the Water Resources Committee recommending that the City Manager be authorized to acquire all needed property rights in connection with the Airport Road Signalization Project. Linda F. Wyatt, Chair.

Adopted Ordinance No. 35268-040201. (7-0)
File #2-9-467

7. UNFINISHED BUSINESS: NONE.

8. INTRODUCTION AND CONSIDERATION OF ORDINANCES AND RESOLUTIONS:

- a. Ordinance No. 35242, on second reading, amending and reordaining certain sections of the 2000-2001 General Fund Appropriations. (Fund appropriations for the Capital Maintenance and Equipment Replacement Program.)

Adopted Ordinance No. 35242-040201. (6-1, Council Member Wyatt voted no.)
File #60-270

- b. Ordinance No. 35253, on second reading, rezoning a portion of those certain parcels of real property located at 4425 and 4431 Northwood Drive, N. W., and a portion of that certain parcel of land located at 2032 Peters Creek Road, from RS-3, Residential Single Family District, to C-2, General Commercial District, subject to certain proffered conditions.

Adopted Ordinance No. 35253-040201. (6-1, Council Member Bestpitch voted no.)
File #51

- c. Ordinance No. 35254, on second reading, rezoning a tract of land partially fronting on a portion of Baldwin Avenue, N. E. (8 lots), and additional property fronting on a portion of Edmund Avenue (16 lots), from LM, Light Manufacturing District, to HM, Heavy Manufacturing District, subject to certain conditions proffered by the applicant.

Adopted Ordinance No. 35254-040201. (7-0)
File #51

9. MOTIONS AND MISCELLANEOUS BUSINESS:

- a. Inquiries and/or comments by the Mayor, Vice-Mayor and Members of City Council.

Adopted Resolution No. 35269-040201 changing the time of commencement of the regular meeting of City Council scheduled to be held at 12:15 p.m., on Monday, April 16, 2001. (7-0)
File #132

Adopted Resolution No. 35270-040201 changing the time of commencement of the regular meeting of City Council scheduled to be held at 12:15 p.m., on Monday, May 21, 2001. (7-0)
File #132

Adopted Resolution No. 35271-040201 changing the time of commencement of the regular meeting of City Council scheduled to be held at 12:15 p.m., on Monday, June 18, 2001. (7-0)
File #132

- b. Vacancies on various authorities, boards, commissions and committees appointed by Council.

10. OTHER HEARING OF CITIZENS UPON PUBLIC MATTERS:

CITY COUNCIL SETS THIS TIME AS A PRIORITY FOR CITIZENS TO BE HEARD. IT IS A TIME FOR CITIZENS TO SPEAK AND A TIME FOR COUNCIL TO LISTEN. MATTERS REQUIRING REFERRAL TO THE CITY MANAGER WILL BE REFERRED, WITHOUT OBJECTION, IMMEDIATELY, FOR ANY NECESSARY AND APPROPRIATE RESPONSE, RECOMMENDATION OR REPORT TO COUNCIL.

At 4:15 p.m., the meeting was declared in recess for continuation of the closed session.

At 4:45 p.m., the meeting reconvened in the Council Chamber.

CERTIFICATION OF CLOSED SESSION. (7-0)

The following persons were appointed/reappointed to certain authorities, boards, commissions and committees:

William R. Dandridge as a member of the Mill Mountain Advisory Committee for a term ending June 30, 2001.

File #15-67

Alfred T. Dowe, Jr., Robert B. Manetta and Richard A. Rife as members of the City Planning Commission for terms ending December 31, 2004.

File #15-110-200

Bob Caudle as a member of the Roanoke Neighborhood Partnership Steering Committee for a term ending November 30, 2003.

File #15-110-488

Gail Burruss as a member of the Advisory Board of Human Development for a term ending November 30, 2004.

File #15-72-110